

ORIGINAL

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE : Case No. 05-44481
BANKRUPTCY OF : May 12, 2006
DELPHI CORPORATION, et al. :
:

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT D. DRAIN, J.S.C.
UNITED STATES BANKRUPTCY COURT

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1 THE COURT: Please be seated.

2 Okay.

3 We're back on the record in Delphi.

4 MR. BUTLER: Your Honor, good morning. Jack Butler
5 from the law firm of Skadden, Arps, Slate, Meagher and Flom,
6 LLP. Here for the continuation of the Debtor's Section 11, 13-
7 11-14 Hearing

8 When we broke on Wednesday, we were in the middle of
9 the cross examination of Dr. Michael L. Wachter in connection
10 with his declarations, that are Exhibits 16 and 17. So, with
11 Your Honor's permission we'd like to recall Dr. Wachter for the
12 continuation of that examination.

13 THE COURT: Okay.

14 That's fine.

15 (Whereupon, Dr. Michael L. Wachter was recalled to
16 the stand. He is still under oath.)

17 D R. M I C H A E L L. W A C H T E R, having been
18 previously sworn, testifies as follows:

19 THE COURT: Okay.

20 Dr. Wachter, you're still under oath.

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 You can continue.

24 MR. DECHIARA: Good morning, Your Honor, Peter
25 Dechiara, from the law firm of Cohen, Weiss and Simon,

1 representing the UAW.

2 CROSS EXAMINATION

3 BY MR. DECHIARA:

4 Q Good morning, Mr. Wachter.

5 A Good morning.

6 Q Mr. Wachter, when we finished on Wednesday, there was
7 one piece of uncompleted business, which I'd like to try to
8 wrap up this morning.

9 We were discussing legacy costs. And by legacy costs
10 I refer to costs such as and including pension, accrued pension
11 liabilities for employees who have already retired or including
12 retiree health insurance for employees who are already retired.

13 And, I believe you testified and you correct me if I
14 got this wrong, that a proper comparability analysis of a
15 company's current labor costs should include such legacy costs;
16 is that correct?

17 A That's correct.

18 Q And I asked you whether or not, in your expert
19 reports in the Delta and the United and the Tower cases, you
20 had, in your analysis of the current labor costs of those
21 employers included legacy costs. And I showed you the reports
22 and then we decided that you would have the time, during the
23 break between Wednesday and today, to review those reports.

24 Have you had a chance to review those reports?

25 A Yes/

1 Q Okay.

2 And, let me just ask you, did you - in preparing to
3 answer this question that I'm asking you now; did you refer to
4 any other documents apart from the reports themselves?

5 A I looked through my notes on United, Tower and Delta.

6 Q Okay.

7 And did you speak to anyone about this particular
8 issue?

9 A I spoke to my colleague, Jim Gillula (phonetic).

10 Q And what did you speak to him about?

11 A Um, whether he had other documents, I did not have, in his
12 file.

13 Q And did he?

14 A Um, he wasn't sure 'cause he was up here. And he stayed.

15 Q Okay.

16 Apart from that did you have any other substantive
17 conversations about this issue with your colleague?

18 A No.

19 Q Okay.

20 So, now, let me ask you, why don't we take them one
21 by one. Let's start with the Delta report.

22 Did you, in your analysis, in the Delta report,
23 include legacy costs, such as accrued pension liabilities for
24 retirees or retiree health insurance?

25 A Yes.

1 Q Okay.

2 Could you point out to me where, in that report, you
3 do so. And, just for ease of reference, let me note that these
4 reports have now been included in the exhibits. It's - the
5 Delta report is Exhibit 246.

6 MR. DECHIARA: And, Your Honor, before we go any -
7 any further, let me further note that in the United expert
8 report that I presented to the Court and to Dr. Wachter on
9 Wednesday, I inadvertently gave a version that did not include
10 certain exhibits. I've subsequently given copies of those to
11 - to Counsel for Delphi. And let me now give copies of the -
12 of those obtained reports to the Court and to the Witness.

13 And I would just ask that at the appropriate time
14 that this complete report be substituted in the Exhibit Books
15 for the - for the incomplete one.

16 THE COURT: What would that be; 247?

17 MR. DECHIARA: 240 - the United is 247, yes.

18 CONTINUED CROSS EXAMINATION

19 BY MR. DECHIARA:

20 Q Referring your attention to Exhibit 246; where does
21 show that your report included legacy costs?

22 A It would appear in any of the tables, um, where we had
23 benefits.

24 Q Okay.

25 Let me, refer you to Page 36, Table 10.

1 Would it appear in there?

2 A Yes, it would.

3 Q And this is a table comparing the monthly wages and
4 benefits of the Delta pilots to the monthly wages and benefits
5 of workers in the private sector; is that correct?

6 A Yes.

7 Q Okay.

8 And, where, in particular, do the legacy costs
9 appear?

10 A Um, well, the retirement costs would appear on the
11 retirement line.

12 Q Okay.

13 And the retiree health insurance?

14 A Retiree health insurance, um, I'm not sure exactly how it
15 happened, but it was inadvertently not included.

16 Q Okay.

17 So you did not include retiree health insurance in
18 your analysis?

19 A Yes. Inadvertently so.

20 Q Okay.

21 But, there - the retired Delta pilots do have, or at
22 this time, did have retiree health insurance; correct?

23 A Yes.

24 Q Okay.

25 Now, this analysis where you compare the wages and

1 benefits of the Delta pilots to the private sector average is
2 identical in format to the analysis you provide in this case,
3 in your Delphi report, on Page 20 of your Declaration, which is
4 Exhibit 16; where you compare Delphi wages and benefits to the
5 average of the - the private sector average; correct?

6 A Excuse me. Which page?

7 Q 20, Table Roman five, Arabic two.

8 A Sorry. Your question?

9 Q This - your analysis, Table 5.2; do you see that?

10 A Yes, I do.

11 Q That's the same format as your Exhibit 10 in - in
12 the Delta report; correct?

13 A If you refer to similar format and similar lines that's
14 correct. Obviously there are a lot of other differences.

15 Q Right.

16 But, in - in terms of - I'm looking at the - the
17 wages and then the cat - the different categories of benefits,
18 including insurance and retirement, and then comparing them
19 against the BLS data for the private sector average. That
20 format is the same; correct?

21 A The (inaudible) are the same.

22 Q Okay.

23 And we know that Table 5.2, where you have an item
24 for retirement and another item for insurance does not include
25 legacy costs; correct?

1 A In 5.2?

2 Q In 5.2 on Page 20, under the Delt - the - the
3 column, the first column on the left for the Delphi workers,
4 you have a retirement benefits line and an insurance line.
5 Those don't - do not include legacy costs; correct?

6 A They're not included in that tape holder (sic). They're
7 included in a different tape holder, which shows the same
8 results.

9 Q They're not included here; correct?

10 A Yes.

11 Q Okay.

12 But your telling us that in Exhibit 10, in Delta,
13 which has the exact same format you did there, at least for
14 pension, include re - retirees' pension liability?

15 A Yes.

16 Q Okay.

17 And, the data - the data that you include on Exhibit
18 10, for the Delta pilots, you obtain that from Delta Airlines?

19 A Yes.

20 Q And, did they tell you that it included pension
21 liabilities for retirees?

22 A Um -

23 MR. BUTLER: Objection.

24 Your Honor, I don't know what the relevance of what
25 Delta told Dr. Wachter in the Delta report is to these

1 proceedings.

2 MR. DECHIARA: Your Honor, I -

3 MR. BUTLER: That's what the question was, what Delta
4 said.

5 THE COURT: Well, no, I'll - I'll overrule that.

6 THE WITNESS: What I asked Delta to do, what I ask
7 anyone that I'm working for, in terms of providing the
8 benefits, is to provide the benefits, um, in accordance with
9 the ECEC format.

10 CONTINUED CROSS EXAMINATION

11 BY MR. DECHIARA:

12 Q That's what you said to Delta?

13 A Yes.

14 Q Who at Delta did you - did you say you wanted in
15 accordance with the ECEC format?

16 A By now I've forgotten.

17 THE COURT: Let's -

18 THE WITNESS: By now I would have forgotten the
19 person's name.

20 CONTINUED CROSS EXAMINATION

21 BY MR. DECHIARA:

22 Q Was it a management person at Delta?

23 A It would certainly have been somebody - an employer -
24 employee that managed it at Delta.

25 Q And when you say ECEB format; what do you mean?

1 A Employer cost of employee benefits.

2 Q And the E - and EC, I'm sorry. Can you give me
3 those abbreviations again.

4 A Employer cost of employee benefits.

5 Q Okay.

6 And the ECEB data is where you got the private sec -
7 the right-hand column in both - in both the - the tables
8 we're talking about. The - the column that includes the
9 private sector numbers; correct?

10 A You mean, the middle columns?

11 Q The columns that - okay. On Table 542, would be the
12 middle column.

13 A Yes.

14 Q Okay.

15 Now, when the E - in the ECEB; and just so we all
16 know what we're talking about, that's - that's the Bureau of
17 Labor Statistics Data?

18 A Yeah, I - I missed the initials you were using.

19 Q ECEB. Did I get that wrong?

20 A Employer - yes, you did.

21 Q Can you give it to me correctly?

22 A Yes. Employer Cost of Employee Benefits.

23 Q Right.

24 So, that's ECEB?

25 A Yes.

1 Q That's what I said.

2 A But it's called the ECEC.

3 (Laughter)

4 Q I'm just going to call it the BLS Data, okay.

5 A If you wanna call it the EECEB go ahead. Then you'll
6 understand what -

7 Q Thank you.

8 Okay.

9 Just a - just a indulge me.

10 When the Bureau of Labor Statistics in its ECEB
11 figures include - includes a line for retirement for workers
12 in the private sector economy. Is it including retiree health
13 - pension liabilities for retired employees?

14 A It may.

15 Q What do you mean by that?

16 A The - this - this is data said - collected by the
17 Government. It's obviously, um, sort of data intensive
18 exercise. And what they do is they allow the firm to report
19 the data best they can in accordance with their own method of
20 dealing with it.

21 As a consequence of that, some firms, like the Postal
22 Service, report those items, the employ - the - the person
23 employment benefits, below - what's called the line. And
24 other employers counted above the line. And, you can do either
25 as far as the reporting requirements are concerned.

1 Q So, you're saying there are no guidelines from the
2 Government in reporting on this data as to whether, on the
3 retirement line, you need to - you should include or not
4 include pension liabilities for retirees; is that what you just
5 said?

6 A No.

7 Q Well, let me ask you that.

8 Are there guidelines from the Government, on
9 reporting this data, on whether an employer should include
10 pension liabilities for retired employees?

11 A Yes.

12 Q There are guidelines?

13 A There are guidelines.

14 Q And what do the guidelines say?

15 A The guidelines say that you can report it, um, in - they
16 - they would prefer that you would report it below the line.
17 But if you don't have the data available below the line you can
18 report it above the line.

19 Q Okay.

20 I'm not sure I understand what you're talking about,
21 above or below the line?

22 When you report the data to the Government, that gets
23 factored into this ECEB database, does the Government direct a
24 company to include that retiree pension liabilities or not?

25 A Um, ah, yes they do. I believe they - they do.

1 Q Okay.

2 A I haven't - the last time I read that particular item was
3 awhile ago. But, we - we generally collect it in all the
4 situations in which we work.

5 Q Okay.

6 So, you believe that the ECEB data, from the
7 Government, does include the - the legacy costs? The
8 retirement legacy costs?

9 A Yes.

10 Q Okay.

11 So, going back to your Table 502 -

12 A Let - let me correct an earlier comment that I made.

13 Q I didn't hear what you said.

14 A Can I correct an earlier statement that I made on ECEC or
15 ECEB?

16 Q Yes.

17 A It's the employer cost of employee compensation.

18 Q Oh.

19 A Hence the name, ECEC.

20 Q Okay.

21 That's what - that's what the problem was.

22 So, let me refer you back to Page 20, on your Delphi
23 report.

24 A Yes.

25 Q On Table 20, on the retirement line, you're not

1 including for - on the left column, for Delphi, you're not
2 including legacy costs; correct?

3 A Correct.

4 Q But in the - in the BLS data, in the comparison
5 column, in the middle, you're including data that does include
6 legacy costs; correct?

7 A Um, yes. We - so again, you -

8 Q Is that correct?

9 A Yes.

10 Q Thank you.

11 Let me go back to when you were - you told Delta
12 Airlines that when you wanted this data from Delta Airlines,
13 you wanted it in accordance with the ECEC format; and you say
14 you don't recall who you said that to?

15 A That's correct.

16 Q Was - was there a trained laborer economist on staff
17 at Delta that you said that to?

18 A I wouldn't have asked anyone that I spoke to what they
19 were qualifications were.

20 Q Okay.

21 So -

22 A To their educational background.

23 Q Okay.

24 So you don't know whether the person who you said
25 that to was familiar with the ECEC format, do you?

1 A Do I know for certain? It was somebody who would have
2 been in the benefits area who would normally collect that data
3 for Delta and report it to the Government.

4 Q So, I'll take your answer to be no, you don't know
5 whether they were familiar with the ECEC guidelines?

6 A Yes.

7 Q Okay.

8 Let's turn now to - well, let me - let me - let me
9 move on to United. And maybe we can make this a little faster.

10 If I ask - if I asked you the same question in
11 United whether you included, in your analysis, legacy
12 retirement costs, when you looked at the United employees
13 benefits, what would your answer be?

14 A The same thing. In whatever - whatever the benefits -
15 whatever the retiree benefits may have been, in the different
16 situations we're dealing with. We would have asked for them.

17 Q Okay.

18 Although, in the case of Delta, you said you did not
19 include retiree health.

20 Did you include a retiree health in the case of
21 United?

22 A No. It turns out we did not there as well.

23 Q Okay.

24 And that was also inadvertent?

25 A Correct.

1 Q Okay.

2 Now let's talk - and if I asked you where, in the
3 United case, did you include retirement legacy costs when you
4 looked at the current costs for the United employees, you would
5 point me to a chart with the similar format as Exhibit 10 in
6 the Delta Exhibit; correct?

7 A Yes.

8 Q And there would be a line that says, retirement, and
9 I would ask you, how do you know that? I would ask you, where
10 did that come from? And you would tell me, from United
11 Airlines?

12 A Yes.

13 Q Okay.

14 Let's go through the same exercise.

15 Had - when you - did you ask for that data from
16 United Airlines?

17 A Yes.

18 Q Okay.

19 And do you recall who you asked it from?

20 A No.

21 Q Okay.

22 And do you know whether the per - and when you asked
23 for it, did you say you wanted it in the format of the ECEC
24 guidelines?

25 A Yes.

1 Q And do you know whether the person you asked that of
2 was a trained laborer economist?

3 A Again, I would not have asked for the person's
4 qualifications.

5 Q And - and that means, no; correct?

6 A Correct.

7 Q And you don't know whether that person knew what the
8 ECEC guidelines meant?

9 A I would assume the person did, (inaudible) since, if the
10 person -

11 Q I don't want you to speculate or guess.

12 Do you know what - if the person know what meant?

13 A I do not test the person.

14 Q Okay.

15 And did you do any independent analysis, when you
16 received this data, both in the case of Delta and United, to
17 determine whether or not the retirement - the current
18 retirement costs included pension liabilities for retirees?

19 A Yes.

20 Q And how did you do that?

21 A We would have looked at the data and asked for the
22 breakdown.

23 Q And was such a breakdown given?

24 A I believe so.

25 Q Do you recall that for certain?

1 A For certain, I - since you don't want me to speculate,
2 and, you know, that's - this is one of the very detailed facts
3 in a complicated case; I don't - do not remember for certain.

4 Q Okay.

5 Did you, in your analysis of Tower, the - the - the
6 pay of the, or the compensation of the Tower employees, did you
7 include in your analysis retiree pension liabilities and
8 retiree health insurance benefits when you looked at your
9 analysis of the Tower employees compensation?

10 A We were not asked to analyze employee benefits.

11 Q But you did render a judgment, did you not - or, let
12 me not say a judgment. You did render an expert opinion on the
13 reasonableness of Power's wage proposals; did you not?

14 A Yes, I did.

15 Q And, I believe, you testified about this on
16 Wednesday, but correct me if you didn't. Or - strike that.

17 Isn't it - isn't it the case that in evaluating a
18 Wade Proposal, one must evaluate it in the context of total
19 compensation; correct?

20 A Absolutely.

21 Q And, in your view, total compensation includes legacy
22 costs; correct?

23 A Correct.

24 Q And, so, did you do any analysis for your Tower
25 report when you rendered that expert opinion, that their Wade

1 Proposal was reasonable to look at the legacy costs?

2 A I did a brief analysis, yes.

3 Q And you did not include that in your report, did you?

4 A Um, I did not include the report on that in the report.

5 MR. DECHIARA: I have no further questions on cross.

6 A VOICE: (Inaudible.)

7 THE WITNESS: G-I-L-L-U-L-A.

8 CROSS EXAMINATION

9 BY MR. KENNEDY:

10 Q Good morning, Dr. Wachter. I'm Tom Kennedy of
11 Kennedy, Jennik and Murray. I represent the IUECWA.

12 A Good morning.

13 Q In reading your report, Doctor, it's pretty apparent
14 that you've used the comparability principal to establish the
15 - what you believe to be the appropriate wage rates at Delphi;
16 is that correct?

17 A That's correct.

18 Q And is it also correct that you believe that an
19 employer need pay no more than the wage called for by the
20 comparability principal for any job?

21 A In a competitive market, that's correct.

22 Q And you determine the comparability principal, as it
23 applies to Delphi, by first comparing Delphi workers to
24 comparably skilled workers, economy wide?

25 A Yes.

1 Q And, as I understood it, the comparable group you've
2 selected, is a national average wage of, quote, machine
3 operators, assemblers and inspectors, close quotes; and, quote
4 handlers, equipment cleaners, helpers and laborers, close
5 quotes, as appropriate comparison?

6 A We had three comparison groups. That is one of them.

7 Q Isn't that the - two groups that were used to
8 compute the applicable national average wage rate?

9 A It was one of the three that was used for that purpose.

10 Q Was that the group that was used to compute the wage
11 rate that was applicable, or should be applicable to Delta's -
12 yeah, Delta.

13 Thank you.

14 (Laughter.)

15 Q To Delphi's production workers?

16 A It was one of three.

17 Q All right.

18 What were the other two?

19 A The other two were the Competitor Data.

20 Q Um-mm.

21 A And with somewhat less emphasis, the - the Hiring In
22 Plans where they were hiring wages below the traditional
23 scales.

24 Q Now, for the Competitor Data that you utilized to
25 make the expert opinion on Delphi's production rates. That was

1 given to you by Delphi; correct - correct?

2 A Correct.

3 Q And you concluded that the average wages of full time
4 workers in comparable occupations, economy wide is \$13.34?

5 A Could you refer me to what number you're using?

6 Q Okay.

7 It's in Exhibit 16, oops. I'm referring to Page 15,
8 Paragraph 40 of your opinion, which is in Evidence as Exhibit
9 16, Doctor.

10 A Yes.

11 Q Now, that national average, like any average, I take
12 it, has firms that pay both below that number and above that
13 number?

14 A Yes.

15 Q And what would the range of payments be within those
16 economy wide classifications that you've selected?

17 A Um, I don't know what the range is. The range is not
18 public - published data.

19 Q Wouldn't - wouldn't it be fair to say, Doctor, that
20 the range would be in between the federal minimum rate and
21 about \$30 an hour?

22 A Ah, the unionized firms would cer - could certainly have
23 high bene - high costs, whether they're wages or benefits. I
24 do not know about whether anyone's being paid the minimum wage
25 for doing the jobs that we're talking about.

1 Q Well, the jobs that you're talking about would
2 include, as I believe you indicated in the last cross
3 examination, selling machine operator jobs in the garment
4 industry; correct.

5 A That's correct. There's a range of jobs.

6 Q And, about a mile north of here is New York City's
7 China Town. I represent the Union in China Town.

8 Do you have any idea what the applicable wage rates
9 are for machine operators? In those jobs.

10 A For machine operators?

11 Q In those jobs. In the sewing machine jobs in China
12 Town.

13 A No. Obviously not.

14 Q You don't know if those are minimum rate or just
15 above minimum rate jobs?

16 A No.

17 Q If you assumed, Doctor, a hypothetical in which a
18 union free environment in which employers able to implement,
19 under the comparability principal, in all manufacturing shops,
20 the average wage, it would, in your view, be \$13.34 per hour?

21 A It - the comparable - the comparable wage, the market
22 wage is approximately that.

23 Q But, if in a union free environment, all of the
24 employers implemented the 13.34, in a sense, a number of those
25 employer would have been paying above that; wouldn't that have

1 the effect of driving down the average rate below \$13?

2 A No.

3 Q I'm trying to understand that. Because, in a range
4 environment, in which some employers are paying less and some
5 are paying more, if the employer's paying more went to what
6 was, at any given point the average, wouldn't mathematically by
7 definition, the comparable rate fall?

8 A I'm - I don't - didn't understand your statement.

9 Q Okay.

10 Let me try to repeat it.

11 The comparability principal is simply an averaging,
12 nationwide, of applicable wage rates in manufacturing
13 facilities; correct?

14 Q Yes.

15 Q And since that average has a range, including
16 employers paying above. If all the employers paying above, in
17 a union free environment, adopted your comparability principal,
18 the wages in those shops would all drop to 13.39, as we sit
19 here today; correct?

20 A No.

21 Q Why not?

22 A The firms can adopt whatever wages they wanna to adopt.

23 Q I'm just asking, Doctor, in a hypothetical, if your
24 comparability principal were adopted by all employers of
25 manufacturing locations in the United States, and imposed the

1 wage that you've concluded as the average; wouldn't the effect
2 be to immediately reduce the average because higher paying
3 employers would have dropped down to the 13.39 figure?

4 A No.

5 Q Why not?

6 A Because employer can set wages at the points that they
7 wanna set it. Because this is not - this is not a regulated
8 wage that every employer has to pay.

9 Q Well, what are the circumstances under which it makes
10 good business judgment to pay above the comparability
11 established rate?

12 A There is - you know, too many to - to count, including
13 that the employer may not know exactly which one it is.

14 Q Well, let's assume that there is a perfectly free of
15 universe of information out there. And, employers are aware of
16 the average. But, nonetheless, deciding to pay in excess of
17 it. What would be the factors in which good busi - business
18 judgment would call for an employer paying in excess of the
19 comparability wage?

20 A Well, if you had an older workforce, you might wanna pay
21 14 rather than 13 and a half.

22 Q And why would that be true?

23 A Um, you might, just as a matter of rewarding workers, even
24 if they're not more skilled.

25 Q Would productivity be a reason for paying workers

1 above the rate otherwise determined by the comparability
2 principal?

3 A The use of the term, productivity, in this context doesn't
4 have a direct meaning that I can use and explain.

5 Q Have you ever been in a factory and watched people
6 work, Doctor?

7 A Yes, I have.

8 Q You know, some people can make eight parts an hour,
9 and some people can make 18. Are you aware of that?

10 A Yes.

11 Q And the people making 18 parts an hour, wouldn't it
12 be common sense that they would make more than whatever an
13 average rate would be, of production?

14 A So, you're talking about workers who were working harder
15 and faster?

16 Q Yeah.

17 A Okay. Yes.

18 Q I'd like to direct your attention to the report by
19 Susan Halper, that appears as Exhibit 41, Doctor.

20 H-A-L-P-E-R.

21 Referring you, specifically, to Paragraph 23 of that
22 report, sir.

23 Now, in Mr. Dechiara's cross examination, in looking
24 at that paragraph, you gave an opinion that it was, quote,
25 exaggerated, close quote. So is that correct?

1 A Um, I - if you could read back the context in which I
2 said it. I said that as part of a context of answers.

3 Q Okay.

4 Now, you'll note that Paragraph 23 has a long string
5 of letter, which I take to be an internet address that refers
6 to publications that discuss this particular enterprise,
7 Delphi's Portland, Ohio plant. In the break, did you make any
8 effort to review that citation?

9 A No, I didn't.

10 Q Are you familiar with the Shingo (phonetic) Prize,
11 Doctor?

12 A Excuse me.

13 Q Shingo Prize, S-H-I-N-G-O -

14 A No, I'm not.

15 Q - Prize?

16 Do you know if the particular facility that is
17 mentioned in Paragraph 23 has received prizes for excellence in
18 manufacturing?

19 A No.

20 Q Do you know if Delphi has issued public statements
21 praising IUECWA Local 717 for its efforts to cooperate with the
22 company in producing greater productivity at that plant?

23 A No.

24 Q If you imagine, as a hypothetical, that that is a
25 plant producing a billion plastic parts per year with an

1 effective defect rate of zero parts per million, would you
2 agree with me that, that is an instance in which it would be
3 sound business judgment to pay wages in excess of the
4 comparability principal?

5 A No.

6 Q And why not, Doctor?

7 A It's not my judgment. It would be the firm's judgment as
8 to the wage policy they want to adopt. Um, in a regime where
9 you could freely assign worker, promote workers based on merit,
10 one way of rewarding a worker who performs above the average,
11 would be to promote them.

12 The other thing would be to give that particular worker,
13 because you - you wouldn't want to give, necessarily,
14 everyone, unless you assumed everyone was working harder, the
15 higher wage. And you could also do that as a bonus.

16 But, the most likely thing you'd wanna do is promote those
17 people who are working harder.

18 However, if - you would also wanna look at the quick
19 rate, and see if the quick rate were such at the plant that,
20 perhaps, in that plant the market wage - the local wages are
21 lower, giving you some leeway.

22 And, I'm saying, there are so many factors that I can't
23 answer your question, yes.

24 Q Okay.

25 I wanna look at one of those factors you just

1 mentioned. Promotion.

2 So, your notion about the way to reward high
3 productivity machine operators, is to promote them out of the
4 machine operator position?

5 A I said, as a hypothetical, you could promote people. And
6 there is, at Delphi, a certain amount of job title creep.

7 A VOICE: Job title what?

8 THE WITNESS: Creep.

9 CONTINUED CROSS EXAMINATION

10 BY MR. KENNEDY:

11 Q So you think the Delphi's proper approach to dealing
12 with its financial troubles should be to take its high
13 producing industrial workers and give them job titles so that
14 they're no longer running the machines that have made them so
15 productive?

16 A In - in a Delphi context, since you - you're - you have
17 a collective bargaining contract, you can't do anything more
18 than you can, um, bargain for with the Union, which tends to be
19 a pretty much, a flat wage, regardless of skill. And, even to
20 an extent, regardless of job title.

21 Q Even in the context of a flat wage, Doctor, isn't it
22 possible for a Union to negotiate productivity and flexibility
23 rules that, for a group of people, as, for example, at this
24 particular Portland, Ohio facility, the next productivity per
25 labor hour is sufficiently high, but it's good business

1 judgment to pay in excess of the comparability principal?

2 A Well, this big good business judgment, I'm not sure that
3 you need to do that through collective bargaining. The
4 employer might be willing to do it on its own.

5 Q Do you think Delphi has the option of not proceeding
6 through collective bargaining and setting the wages and
7 benefits at the Local 717 facilities in Portland, Ohio?

8 A Certainly not. I was just using your term, good business
9 judgment.

10 Q Doctor, in your statement you refer to the fact that
11 there are employees at Delphi who receive less than - let me
12 - let me withdraw that.

13 You refer to the fact, in your statement, that there
14 are employees who receive, quote, non-traditional wages, close
15 quote?

16 A Correct.

17 Q Which Delphi unionized plants did you determine had
18 employees that were being paid at or below what you determined
19 for competitive market level?

20 A I had a - was given a sheet, which I do not have with me,
21 that had the, um, ah, the plants, that were traditional plants
22 and the plants that were nontraditional plants. Without
23 looking at that, I can't determine exactly what was on that
24 sheet.

25 Q Do you recall that there were seven such plants?

1 A I do not want to speculate as to whether there were ten,
2 seven, 12.

3 Q You're aware, that starting in the mid-1980s, IUECWA
4 negotiated agreements with lower than traditional starting wage
5 rates with Delphi; correct?

6 A I don't know when that - exactly when that occurred. But
7 I certainly know it did occur.

8 Q Well, would you look at Paragraph 38 of your
9 statement, which is in Evidence, as Paragraph, excuse me, as
10 Exhibit 16, Doctor.

11 You may want to keep that one open in front of you,
12 if possible. I have other questions I would - I'm referring
13 to Paragraph 38, Doctor.

14 Isn't it true, that in Paragraph 38 of your statement
15 you indicated that the IUE started negotiating lower than
16 traditional starting wage rates with Delphi, in the mid-1980s?

17 A That's correct. I was, you know, on the stand, I just
18 wasn't sure, exactly in 1980s or exactly when that occurred.

19 Q Well, now you're sure; correct?

20 A Correct.

21 Q Okay.

22 And, how many employees were hired in by Delphi in
23 the last year, at those lower than traditional starting wage
24 rates; do you know?

25 A In the last year?

1 Q Yeah.

2 A I do not know.

3 Q Did you determine if there were any Union imposed
4 restrictions on hiring at IUECWA plants at these less than
5 traditional wage rates?

6 A Ah, I did not - do not inquire as to that.

7 Q Now, in Paragraph 10 of your initial declaration,
8 Doctor, you make the statement that the base wages of some of
9 Delphi's production workers, covered by nontraditional
10 agreements, approximate market wages levels; correct?

11 A Yes.

12 Q Which Delphi production workers were you referring to
13 as approximating market wage levels?

14 A Ah, in my analysis I was dealing with averages and was not
15 looking at plants specific numbers. Other than looking them in
16 creating the averages.

17 Q Well, I noticed that in bullet one and bullet two, of
18 Paragraph 10, you identify the percentage by which, in your
19 view, traditional Delphi workers are above skilled workers
20 economy wide. Correct?

21 A Yes.

22 Q And in the third bullet, discussing the extent to
23 which Delphi's production workers, approximate market wage
24 levels, you did not include any percentage analysis by which
25 employees might be below what you've included or determined to

1 be market wage levels; correct?

2 A I think the - the bullets stands for itself.

3 Q All right.

4 Now, referring to Paragraph 41 of your declaration,
5 Doctor, I believe you state, quote, the average base wage of
6 production workers, across seven plants, where nontraditional
7 wage agreements have been reached with the IUE and the
8 steelworkers is \$12.41. Correct?

9 A Yes.

10 Q And that \$12.41 is that what you meant when you were
11 referring, in Paragraph 10, to nontraditional agreements
12 approximating market wage levels?

13 A Well, the 12.41 would - would approximate market levels.

14 Q Okay.

15 Isn't it a fact that the 12.41 is nine percent below
16 the market level that you determined is appropriate of \$13 and
17 some odd cents?

18 A Yes. Which is why when - when I was making my general
19 conclusion it was based on the averages.

20 Q But you didn't include a reference to how much below
21 market they were, in your Paragraph 10; did you, Doctor?

22 A As you could easily do, calculating a percentage
23 difference is not difficult.

24 Q Well, isn't it also the fact that that was a number
25 which didn't help Delphi? Isn't that really why you didn't put

1 it in your report, Doctor?

2 A Certainly not.

3 Q Oh.

4 In Paragraph 11 you indicate in your second bullet,
5 that the non-wage benefits of Delphi's production workers are
6 four times higher than those of similarly skilled workers,
7 economy wide; correct?

8 A I'm sorry. I was turning to the page about the -

9 Q All right.

10 Let me - let me - I'll just - I - I don't need to
11 repeat it again for the record.

12 If you look at the second bullet in 11, Doctor.

13 A Yes.

14 Q You're referring to the four times hire. Do you see
15 that?

16 A Yes.

17 Q Now, did you analyze the non-wage benefits of Delphi
18 workers hired under the Competitive Wage programs that we were
19 discussing a minute ago?

20 A I did have some discussion, um, with Delphi management
21 about nontraditional benefits.

22 Q And did that discussion result in your forming a
23 judgment as to the extent to - or as to how those non-wage
24 benefits for non-traditionally paid workers compared to what
25 you're using as the market level for manufacturing workers?

1 A Ah, I didn't have precise data. My, um, assumption was
2 that on average - was that on average they would be close
3 enough to the market, whether they be above or below the
4 market. So, that if you added them, and the wage rate, they
5 would still be, um, ah, roughly comparable.

6 Q They'd be roughly equivalent with the market?

7 A Correct.

8 Q Because in your second bullet, in Paragraph 11, you
9 state that the non-wage benefits of Delphi's production workers
10 are four times higher.

11 A Well, I'm - I'm sorry. I - all right, I misstated. I
12 thought you were still - I misstated the last comment was
13 still about nontraditional. I -

14 Q Okay.

15 I understood that. No, I understood that, Doctor.

16 A Okay.

17 Q My question is this; since the nontraditional workers

18 -

19 A Yes.

20 Q - have benefits that approximate market wages -

21 A Yes.

22 Q - why was that not included in your Paragraph 11?

23 A I don't recall why I didn't include it.

24 Q Isn't it because that wasn't a factoid that helped
25 Delphi, in terms of this proceeding; isn't that why you didn't

1 put it in there?

2 A I mean, certainly not. All - since all these numbers are
3 in the report, it's easy enough to -

4 Q Okay.

5 A - do the calculations.

6 Q I wanna ask you a couple of questions about the quick
7 rate that you've discussed at Paragraph 14 of your report,
8 Doctor.

9 The quick rate you're indicating that's applicable in
10 manufacturing economy wide, is 19 to 21 percent?

11 A Ah, you're gonna give me the paragraph number again?

12 Q Yes. Paragraph 14, Doctor. Second bullet.

13 A Yes.

14 Q Is that just a blue collar quick rate? Or is that
15 for everyone involved at a plant, a manufacturing facility?

16 A Ah, those are collected as average plant, um, numbers.

17 Q So, would that apply, for instance to salary, to
18 management at manufacturing plants?

19 A Um, actually that, I'm not - not entirely sure of - of
20 - without checking the sources more specifically. But I - I
21 think they are, but I would need to check the reference.

22 Q Okay.

23 Sitting here today, do you have any information on
24 what the salaried or managerial quick rate is economy wide?

25 A No.

1 Q You think, though, it's included in the 19 to 21
2 percent average, which is identified at Paragraph 14?

3 A Ah, I think so. But, again, I don't want to speculate.
4 And I would need to read the reference, um, related to the
5 collection of quick rates.

6 Q Well, let's look at the first bullet in Paragraph 14,
7 where you refer to Delphi's annual quick rate. That one
8 percent figure; is that corporate or at least North American-
9 wide?

10 A Excuse me?

11 Q Is that North American-wide, that one percent?

12 A Yes.

13 Q It's not limited just to hourly workers; correct?

14 A I believe those are plant-wide numbers.

15 Q When you say, plant, you mean North American
16 operations-wide numbers?

17 A It would be an average of - of plant quick rates.

18 Q Okay.

19 I just wanna make sure that whether the term, plant,
20 is referring to just man - just to hourly workers or to
21 everyone in Delphi's North American operations?

22 A Um, I bel - I believe what was given to us was the plant-
23 wide number, which, I presume, would include, ah, all
24 employees.

25 Q Manaserial (phonetic) - serial - excuse me.

1 Salaried and managerial; correct?

2 A And nontraditional.

3 Q And nontraditional as well. All right.

4 Now, your final conclusion on the total compensation
5 for Delphi's workers is that it should be \$20.79 per hour. Is
6 that correct, Doctor?

7 A Excuse me? Now, are you referring to -

8 Q Yes.

9 A - specifically?

10 Q I'm referring to your conclusion that the - all in
11 manufacturing employees labor costs, as I understand it, at
12 Delphi, should be - let me to withdraw that - will be \$20.79,
13 under the Company's proposals?

14 A Again, could you give me the paragraph reference.

15 Q I certainly will find it, Doctor. Excuse me.

16 Okay.

17 My colleague reminds me that it's Paragraph 74, Table
18 Roman 7.2.

19 A Yes.

20 Q And you've concluded that the compensation, all in,
21 for Del - for Delphi's hourly workers, under the Company's
22 competitive scenario proposal, will be \$20.79?

23 A Um, well, it depends up on the inclusion or exclusion of
24 some of the other post employment - post employment benefits
25 at the time -

1 Q Well, let's assume they're - these - these exclude
2 them, I think, as we've -

3 A This - this number does -

4 Q - made clearly -

5 A - I refer to it - I refer to that number in the report.
6 We would, obviously, get different inclusions, depending upon
7 which number you chose to use.

8 Q But if we put aside the legacy costs, you've
9 concluded that the \$20.79 is what the compensation, the all in
10 figure would be for Delphi's hourly laborers, after the, or
11 under the November 15th, competitive wage scenario; correct?

12 A Correct.

13 Q And, you've also concluded that the comparable
14 workers, economy wide, under, what I assume is an apple -
15 apples comparison, would be paid \$21.33; correct?

16 A Yes.

17 Q Now, that - that difference would yield more than a
18 \$1,000 on an annual basis of 20,080 hours - excuse me, 2,080
19 hours to the average Delphi worker; correct?

20 A I didn't do the multiplication.

21 Q Well, I don't know how hard it is, Doctor. It's
22 about a 55 cent difference between \$21.33 and \$20.79?

23 A I was answering your question literally. I hadn't done
24 the -

25 Q Okay.

1 A - (inaudible).
2 Q Well, you - you have a PhD from Harvard, Doctor?
3 A Yes, I do.
4 Q Well, see if you can follow me on this.
5 A Okay.
6 Q Take \$21.33 -
7 (Laughter.)
8 Q - and subtract \$20.79. I'll give you a calculator
9 if you need it.
10 A No, I usually don't do things with computers, so -
11 Q All right, so. I can see why, Doctor, but, possibly
12 you can help me here. It's about 50 cents?
13 A Yeah, that -
14 Q Don't you think you might take a chance on that,
15 about 50 cents?
16 A I'll - I'll do that.
17 Q Okay.
18 And, you know the average working hour is 2,080
19 hours. Your working year, rather, is 2,080 hours?
20 A Correct.
21 Q So, at a 50-cent rate, that's a little more than
22 \$1,000 below what you've determined the comparable worker's
23 economy wide is what the Delphi offer was made on November 15th
24 to the Unions; correct?
25 A Excluding the legacy costs -

1 Q Yeah.

2 A - that is correct.

3 Q All right.

4 Thank you.

5 I have no further other questions, Doctor.

6 CROSS EXAMINATION

7 BY MR. PETERSON:

8 Q Good morning, Dr. Wachter. Lowell Peterson
9 representing the Steel Workers.

10 A Good morning.

11 Q Dr. Wachter, you've been testifying about wage
12 comparability for a number of years; is that a fair statement?

13 A Yes.

14 Q And you've been certified as an expert about wage
15 comparability in a number of cases; is that correct?

16 A Correct.

17 Q And in all of those cases you have testified on
18 behalf of employers; was that correct?

19 A Yes.

20 Q And, in all of those cases you have testified that
21 the wage rates, either earned or proposed by the Unions, were
22 too high; correct?

23 A No.

24 Q Would you say that, that's true of 90 percent of time
25 - of the wage rates you've testified about?

1 A Um, to cut to the chase, I never use the term too high.

2 Q All right.

3 Above what you consider to be the market rate?

4 A Correct.

5 Q So, in all cases you've testified that the wages
6 earned or proposed by Unions are above the market rate?

7 A Correct. And, no - and, in fact, none of these cases
8 were they close.

9 Q They've never been close?

10 A They've ranged over a distance. But when you're talking
11 about the premiums that we're seeing here, at Delphi, I've
12 never seen anything like this in any of the other work I've
13 done.

14 Q All right.

15 When's the last time you toured a - an automotive
16 parts manufacturing facility?

17 A I don't recall whether they - when I did that when I was
18 in the ILR School or not, but it would have gone back awhile.

19 Q 1960s? '50s?

20 A That - that was uncalled for.

21 (Laughter)

22 Q '80s?

23 A 19 -

24 (Laughter)

25 A It was either 1964 or 1984.

1 Q All right. Fair enough.

2 And that's - you haven't toured an aut - any plant
3 in the automobile industry since -

4 A I don't -

5 Q - then?

6 A Correct.

7 Q All right.

8 You haven't toured any manufacturing facilities, in
9 fact, since the ILR School; is that correct?

10 A Um, correct.

11 Q All right.

12 So, you haven't actually seen - it goes without
13 saying - any Delphi employers at work or what they do; is that
14 a fair statement?

15 A Correct.

16 Q All right.

17 And you did not, yourself, select which Delphi job
18 classifications to use to compare with the BLS classifications;
19 correct?

20 A Yes. I was using their study as the starting point.

21 Q All right.

22 But you assume that the machine operator
23 classification that the BLS uses, which uses the - which
24 includes the pants pressure at the dry cleaners; is, in fact,
25 the appropriate comparable classification to those of Delphi

1 production workers?

2 A The BLS classification is a very broad one. Um, and that
3 would be at the bottom and others would be at the top.

4 Q Well, there are other BLS classifications that are
5 narrower; correct?

6 A That - that may or may not be true. I just wouldn't want
7 to speculate on that.

8 Q All right.

9 But you use the - the broad one?

10 A Oh, we - you - yes, you can get narrower within the BLS.

11 Q All right.

12 But you didn't do so in order to do your
13 comparability analysis?

14 A No. I, as I said, I relied on what management had done
15 and I thought it was a very high quality study.

16 Q Management selected the BLS machine operator
17 classification and not you?

18 A Management had done the original study where they told us
19 how they - that they were classifying their workers into four
20 categories. We, then, subsequently, ah, decided to use two
21 categories that were little broader than their four categories.

22 Q Why did you use broader categories than the ones
23 selected by Delphi?

24 A Um, first it didn't make much of a difference. And we
25 checked both ways. And the other main factor is that with the

1 four categories, it's my understanding that not all the Delphi
2 production workers could be cat - could be put in those four
3 groups. But, in my two groups, um, they could have been
4 classified.

5 Q So these were the - the broadest possible categories
6 to catch for everybody who works at a Delphi plant?

7 A Yes. It - but this - these really entirely appropriate
8 for the purposes of our study.

9 Q If I understand it correctly, the - the - the
10 premise of the labor comparability analysis, as you
11 articulated, is that, it will identify wages that a - an
12 employer needs to or should pay to attract workers from the
13 labor market. Broadly defined. Is that right?

14 A Again, if we strike the word, should, and relied on need,
15 in terms of attracting and main - and retaining a qualified
16 work force, that would have calculated in the market wage.

17 Q All right.

18 Need and not should, because you - you're not making
19 a value judgment, you're just saying that's all you have to pay
20 to get people to come in and work?

21 A Ah, that - that's the market wage. That's what I'm
22 saying.

23 If you're in a market wage setting, ah, if you're in a co
24 - once a firm is in a competitive setting, it can also fine
25 tune exactly what it's offering based on the quick rate.

1 So, if the quick rate, let's say, goes higher than the
2 national average, the firm might want to increase its wage rate
3 a bit, um, but you'd wanna rely on your quick rate data to say
4 whether or not you are, um, facing any marks - market
5 eccentricities.

6 Q Okay.

7 The focus, though, is on what you have to pay,
8 actually pay Joe Worker to come and operate your equipment;
9 correct?

10 A That's the con - that's the market wage concept, yes.

11 Q Yes.

12 So, as far as Joe Worker is concerned, it's really
13 irrelevant that the employer has some legacy costs that are -
14 that are related to past employment by current employees or -
15 or to retirees; correct?

16 A No.

17 Q Well, how is that relevant? Because, if - if Joe
18 Worker can go operate the pants press at the dry cleaners for
19 12.41 an hour or 13.34 an hour, and that - that is the wage
20 that needs to be paid by Delphi; correct?

21 A Well, I would assume, in terms of a - an employee, the
22 employee would look at all the benefits, including the legacy
23 clause.

24 Q Well -

25 A That - that person might graduate into.

1 Q All right.

2 Perhaps I need to be more clear than on what I'm
3 referring to when I say legacy costs.

4 I don't have to call it legacy costs. We'll call it
5 the - the cost that the employer pays for benefits that this
6 employee does not him - himself or herself earn.

7 For example, OPEB (phonetic) for retirees. Accrued
8 liabilities in the pension that - that don't affect Joe
9 Worker. Just - Joe Worker doesn't care about those costs.
10 Correct?

11 A The employee would care about those benefits that generate
12 the costs.

13 Q But only as it applies - affects that particular
14 employee; correct?

15 A I don't understand the question.

16 Q Well, um -

17 THE COURT: Well, let me ask you a little differently.

18 Employers have other costs too. They are capital
19 costs; right?

20 THE WITNESS: Yes.

21 THE COURT: Those don't directly benefit the employer,
22 although, the employee may have a better work environment. And
23 the employer may be generally more successful or not; right?

24 THE WITNESS: Yes.

25 THE COURT: But they don't directly affect the

1 decision to come and work; do they?

2 THE WITNESS: Ah, no.

3 THE COURT: What is different -

4 THE WITNESS: The capital cost do not.

5 THE COURT: What is different about a legacy cost than
6 those costs, if anything?

7 THE WITNESS: Ah, well, two pieces. One piece is that
8 it's part of a program, ah, that the employee might view as
9 attractive if it were retained. And, so, if an employee were,
10 for example, works for the Postal Service, that employee will
11 count on what we count as below the line benefits.

12 THE COURT: Let me make sure I understand that.

13 Does that only come into play if the employee feels
14 that those particular legacy costs may jeopardize his own
15 pension because the del - the - the - the company won't be
16 able to continue to maintain the pension with those legacy
17 costs?

18 THE WITNESS: Well, I was dealing the hypo - the
19 hypothetical as -

20 THE COURT: Well, no. I'm just focusing on this - on
21 this issue. I'm - I'm trying to figure out is that - is that
22 the extent of it?

23 THE WITNESS: I'm sorry. Excuse me -

24 THE COURT: I - I think what I heard you say is that,
25 um, because the employee also benefits from a pension.

1 THE WITNESS: Yes.

2 THE COURT: The fact that there are high legacy costs
3 may affect his decision or her decision to come and work
4 because those legacy costs may affect the employer's ability to
5 continue to maintain the pension; if they're high enough and -
6 and not - and not the - the - the - there's a real risk
7 that the employer can't pay them? It jeopardizes the pension?

8 THE WITNESS: It - I think that's that is one of
9 the two elements. The other element, of course, is that since
10 the legacy costs have to be paid, the employee may find him or
11 herself out of the job because the firm has to go bankrupt and
12 therefore -

13 THE COURT: But isn't that - isn't that the same as
14 having a pier (phonetic) capital cost too?

15 THE WITNESS: Well -

16 THE COURT: I mean, if you can't parry the cost to
17 build or update plants, the plant may shut down and you may be
18 out of a job too; right?

19 THE WITNESS: Well, the capital costs are costs that
20 accrue to, um, capital. The legacy costs are continuing
21 payments, ah, to employees.

22 So, for example, the two -

23 THE COURT: But not to this employee.

24 THE WITNESS: Not to this -

25 THE COURT: But to retired employees.

1 THE WITNESS: - not to the new employ -

2 THE WITNESS: Okay.

3 THE WITNESS: - not to the entry level employee.

4 THE COURT: All right. Okay.

5 MR. PETERSON: Right. Thank you.

6 CONTINUED CROSS EXAMINATION

7 BY MR. PETERSON:

8 Q Sir, so, as between the dry cleaner or the pants
9 press machine, 13.34 an hour is the - is the cost? At Delphi
10 13.34 an hour is the - is the wage - I - I meant to say wage
11 not cost - and whether Delphi also has some old liabilities
12 for former retirees, is irrelevant to Joe Worker, except in
13 this indirect sense; correct?

14 A Um, except it affects the ability of the firm to stay in
15 business -

16 Q Right.

17 A - because the costs have to be paid.

18 Q I understand.

19 A But only -

20 Q And this -

21 A - only to the entry level worker.

22 Q Well, to the worker hired by the firm, at - at
23 whatever skill level; correct?

24 A To - the firm is currently hiring employees, they would,
25 presumably, take them into account and think about whether that

1 is a benefit that will continue and could, in the future, if
2 the firm is able to right itself and is that - maintain those
3 programs, re-establish those programs, they would be benefits
4 to the employees -

5 Q Oh -

6 A - through a first command.

7 Q Correct.

8 If the Union is successful in renegotiating those
9 benefits, presumably, that's a benefit to the employee.

10 A If the firm can be stabilized and get out of bankruptcy
11 and be competitive, then, the firm - the employee would be
12 able to consider, ah, those benefits more seriously.

13 Q So, whether an employer might be able to negotiate
14 higher retiree benefits in the future might affect that
15 employee's decision about which firm to go to?

16 A The firm would look at all the - what - what - I'm
17 sorry. The employee would look at, and I'm assum - assuming a
18 super rational employee, but a person looking at a job would
19 look at what are the wages and benefits of this job? What's
20 the history of the wage and benefits? Is this a good employer?
21 Is this likely - is this a busi - a firm that's likely to
22 stay in business?

23 Q And, if it is, is this a permanent - likely to offer
24 bene - better benefits in the future as opposed to not
25 offering better benefits in the future; correct?

1 A I think I understood what you said, I'm not sure, but I'm
2 - I'll answer, yes.

3 Q All right.

4 Let's - you - you mentioned attrition rates also,
5 and, I think you - your declaration suggests a range of 19 to
6 21 percent. In 2005, as I understand it, you identify an
7 economy wide attrition rate of 23.7 percent.

8 A You wanna, again, refer me to the paragraph number.

9 Q Yeah. Paragraph 64.

10 A Those are quick rates, not attrition rates.

11 Q Fair enough.

12 Quick rates.

13 So, that means that on average, it takes a firm a
14 little over four years to have 100 percent turnover; is that a
15 fair statement?

16 A I guess that would be true.

17 Q And, do you think that sustainable for a
18 manufacturing enterprise such as Delphi?

19 A Turn - to turn over - most of the - most of the
20 turnover does include - occur among the younger, um,
21 employees.

22 Q Do you think that a - that a turnover rate that -
23 along the lines that we've just discussed, is sustainable for a
24 manufacturer entity such as Delphi?

25 A Um, it seems to work for most of the manufacturing firms,

1 you know, whether it's IBM or any of the others. They seem to
2 be able to handle those kind of quick rates without duress.

3 Q IBM is a manufacturing firm?

4 Is it - is IBM a manufacturing firm?

5 A I thought so. I thought equipment. Makes all the
6 equipment and I think that's classified as manufacturing firm.

7 Q Now, if a firm pays below the market rate, according
8 to this - to your analysis, then its quick rates would be
9 higher than the national average; correct?

10 A Correct.

11 Q All right.

12 And would it be a fair statement that quick rates
13 that are higher than the national average would not be good for
14 that employer?

15 A Correct.

16 Q So, you would expect, for example, if an employer
17 pays \$8 an hour to new hires, as opposed to the 13.34, that
18 you've identified, that that - that employer would experience
19 quick rates that are significantly higher than the national
20 average?

21 A I - I - you - the number that I'm giving is not an
22 entry level rate. It's an average.

23 Q All right.

24 But, I'm not talking about an entry level rate. If
25 the average rate is \$8 an hour, the quick rate -

1 A If the average rate is \$8 an hour.

2 Q All right.

3 And if the average rate is \$10 an hour it's also,
4 likewise, would be a higher quick rate; correct?

5 A You would expect it to be a quick rate.

6 Now, these are national data, so that if the firm were in
7 the south the market wage would be very different. Ah, if you
8 were looking at regional wages and the pressures, the immediate
9 pressures is this thing from, what I was referring to before,
10 is the longer term pressures, might allow the employer to
11 continue to hire people.

12 Q Well, I thought you said that we shouldn't look at
13 the regional wages?

14 A Um.

15 Q Isn't that your - the gist of your testimony, about
16 we had - we had to focus on economy wide and not regional?

17 A I - I certainly think you have to focus on economy wide.
18 And, the reason for that, is that in a case where - an
19 particularly in a case where an employer is shedding - is
20 closing plants and workers are laid off, where those workers
21 are likely to find a job may not be in the auto town in
22 Michigan, that they grew up in. It may have to be - go to
23 another firm, another establishment, another industry, another
24 locality.

25 If you're hiring, um, locally, in a competitive market,

1 like the south is, it can be that you can get away with a lower
2 wage rate, if you're hiring, than the national average. Which
3 is why you have this migration of jobs and people to the south.

4 Q I'm just trying to compare apples with apples,
5 Doctor.

6 Your - your testimony is - is - is that a com -
7 that for purposes of establishing wage rates this employer; in
8 this case, should use national average wage rate; correct?

9 A From looking at the market wage rate -

10 Q Yes.

11 A - because what the market wage rate will tell you is what
12 a production worker at Delphi, who loses his or her job, is
13 likely, on average, to receive, in the private sector, because
14 with unionization rates now below 10 percent, that employee is
15 not likely to find another auto parts job. Is much more likely
16 to migrate to another part of the country even. And, there
17 they will much more likely be hiring into a market environment
18 as distinct from a union environment, where costs and benefits
19 are driven by the market.

20 Q All right.

21 Just so - a \$27 an hour, or a union worker is likely
22 to move to Alabama for an \$8 an hour job; that's what you're
23 testifying?

24 A I'm testifying that if the plant closed that might be the
25 worker's alternative.

1 Q Or, they could take the pants pressing job for 13.34
2 an hour; correct?

3 A Which pants pressing job are you -

4 Q That's the national average machine operator's.

5 A They will - he - they will - what I'm testifying to is
6 that, on average, there are lots of jobs covered by that. They
7 may well move out of, um, ah, the motor vehicle parts business.
8 They mo - may well take a job at, um, at IBM.

9 Q Fair enough.

10 Thank you.

11 CROSS EXAMINATION

12 BY MS. GOLDSTEIN ROBBINS:

13 Q Good morning, Dr. Wachter. Marianne Robbins
14 representing the IAM and the IBEW.

15 A Good morning.

16 Q Good morning.

17 In your report you reference using 12 categories for
18 skilled workers. But, you don't, in the report, identify those
19 12 categories. Can you identify those categories for us here
20 today?

21 A Um, I don't have the list up here with me.

22 Q I don't either, since it was not in your report.

23 So, um, as your test - as you're sitting here today,
24 you cannot identify for us those 12 categories; is that right?

25 A Um, I cannot. They were the range of categories that

1 comported with the Delphi skilled jobs.

2 Q But, what I'm asking you is whether you can, today,
3 testify to what those categories are?

4 A Precisely, I cannot. I just can tell you how we chose
5 them.

6 Q Do you agree that not all skilled categories have the
7 same comparative wage rate?

8 A Yes.

9 Q And, so when we use an overall comparative average,
10 that average is going to be inaccurate for some of the skilled
11 wage categories?

12 A If - if we're dealing with a market wage, um, that's
13 correct. We're using an average, so it would be an average of
14 skilled workers.

15 Q And you did not do a comparison of comparative wage
16 rates for maintenance, electricians in Milwaukee, Wisconsin;
17 did you?

18 A Ah, from - answering the question literally, no.

19 Q Well, you didn't do a - a - a study of comparative
20 wage rates for maintenance, electricians in Wisconsin, or
21 Southeast Wisconsin; did you?

22 A I - I did a national average. Used national averages,
23 which I believe is a relevant market comparison overall for
24 Delphi.

25 Q Okay.

1 And, we've already discussed the fact that you did
2 not do that by skill - by individual skill categories?

3 A Correct.

4 Q And, the market for skilled trades is going to be
5 specific to a given skill trade; would you agree?

6 A From the market; that's correct.

7 Q And, you also did not do a comparative study in - in
8 the upper mil - Midwest for machine - machine repairmen or
9 tool and dye makers; is that right?

10 A Correct. No, I did no regional analysis.

11 Q And you did no specific skill analysis?

12 A As I -

13 Q Specific to a given skill.

14 A As you -

15 Q Category.

16 A If you're asking the same question as before, the answer
17 is yes.

18 Q I think I asked a negative and you answered. So, I'm
19 - I'm just - bear with me.

20 A Okay.

21 Q You did not do a comparative study by any specific
22 skill category; is that right?

23 A Ah, correct. For this report I did not.

24 Q Now, there was an earlier reference to your quick
25 rates study that was economy wide. And, I don't know that I

1 wrote down the exact paragraph, but what I wanted to ask you is
2 whether your figures for economy wide quick rates includes
3 salaried and hourly? I would - I would have assumed so,
4 because economy wide sounds like that kind - it would include
5 everyone. But, I'm just trying to verify that.

6 A You know, again, as I answered it, I would have to check
7 to be sure. Um, I be - I believe they are economy wide.

8 Q And, it's your testimony that if you have a lower
9 quick rate than that average, you would not need to increase a
10 compensation; is that your testimony?

11 A If you have a low quit rate, um, based on market - market
12 conditions, you certainly would not need to pay more.

13 Q So, if your quick rate was, I think for - for 2005
14 you have a - economy wide quit rate of 23.7? Is it your
15 testimony that if you had a lower than 23.7 quit rate you would
16 not need to increase benefits?

17 A Well, again, this is on average. Ah, employees - em -
18 employers can use lots of different market indicators that will
19 give them pressure - give them information on when they should
20 or should not increase wages. So, that if it's a market wage
21 and a market condition, there are lots of indicators that tell
22 the employer when to increase wages, the quit rate would be one
23 of those.

24 MS. GOLDSTEIN ROBBINS: No further questions, Your
25 Honor.

1 THE COURT: Okay.

2 CROSS EXAMINATION

3 BY MS. MEHLSACK:

4 Q Good morning, Dr. Wachter. Barbara Mehlsack. I
5 represent the Operating Engineers Locals. And those locals
6 employ workers in the category of stationary engineer.

7 Are you familiar with what stationary engineers do?

8 A Yes.

9 Q And - and what is your understanding of what they do
10 at Delphi?

11 A Um, well, precisely at Delphi, I'm not sure exactly what
12 they do. The stationary engineers are typically the - the
13 people who are running, um, you know, the compot - the - the
14 equipment, ah, the complex machinery equipment.

15 Q Complex. Very complex machinery. Is that not the
16 case in - like compressors, bowlers (phonetic), the equipment
17 upon which the entire plant depends when it's - when it's
18 running.

19 A Yeah. Yeah. It's certainly the case that operating
20 engineers are high up in the skill category.

21 Q So, when - when you - well, what - what was the
22 major occupational grouping, that you utilized in analyzing the
23 skilled trades? Including the - the - the ma - the - the
24 rates of - for the skilled trades at Delphi? Including the
25 operating engineer - the stationary engineers?

1 A Um, what I - what I said is, if we matched the, ah, the
2 major categories, um, best we could with the DLS categories, in
3 terms of similar names, for the major categories.

4 Q And - and - and do you recall what that major
5 occupational grouping is for the skilled trades? Do you recall
6 the name?

7 A There were a number of them. I do not re - remember if
8 any of them were operating engineers.

9 Q Well, I believe, Mr. Wachter, that there's only -
10 there is - there is a one major occupational grouping that has
11 12 subcategories and 90 job titles that you utilized for the
12 skilled workers comparison. Is that a fair statement?

13 A Ah -

14 Q Is that an accurate statement?

15 A Well, if I were to recall off hand, I certainly would not
16 be surprised.

17 Q You don't recall at all? Maybe -

18 A I - but I'm - I think I'm testifying and you ask me
19 numbers. I should not be speculating when I don't know the
20 exact -

21 Q Well - well, let me - let me refer you to Page 11
22 of your declaration and report.

23 And, where you say, at the bottom of the page,
24 Delphi's workers are compared to comparably skilled workers
25 using the Bureau of the Census Categoriza - Categorization

1 Structure for occupations. The Census categorization reflects
2 their, I - I want you to make note of that word, their
3 determination of what a worker is likely to view as an
4 alternative job or career path since these occupations would
5 require roughly similar training and possess roughly similar
6 job characteristics and working conditions.

7 First of all, Mr. Wachter, could you tell me, who the
8 their refers to in that sentence? Their determination.

9 A The Census.

10 Q And - and do you have a cite for - in support of
11 this statement?

12 A I - I (inaudible).

13 Q And - and you make this statement and you're relying
14 on this Census. But, I don't find any citation to anything in
15 a Census publication in this report, that would support this
16 statement.

17 Can you - can you, and perhaps, you can, if you
18 would like, I can reserve, perhaps, to this afternoon or before
19 the next hearing date, you could provide a citation for that
20 statement?

21 A Um, if you go to any of the BLS, ah, books, where they
22 have the occupations and if it's one of the books that provides
23 the - the notes on how they do it, the BLS does categorize
24 jobs in terms of the near alternatives that are available to
25 it.

1 Q Mr. Wachter, I will, again, request that you provide
2 me with the cite for that statement.

3 Would Counsel?

4 Let me - let me - let me, before - let - let me
5 ask you; is it - is it your contention that your use of the,
6 what you call, the Census Categorization Structure, is
7 justifiable because the workers in what these - this major
8 occupational grouping view all of the jobs, or the Census'
9 determine they view all of these jobs as alternative career
10 paths. And, all of these occupations require roughly similar
11 training and possess roughly similar job characteristics?

12 A That's not what I said.

13 Q Well, what - this - that's what the - you - you
14 say here, the Census characterization reflects their
15 determination whether - of whether workers likely to view as
16 an alternative job or career path, since these occupations -
17 Mr. Wachter, what - what occupations are these occupations?

18 A Ah, the Census has a categorization across all occupations
19 that it provides, and across all the US occupations it
20 categorizes them into narrow groups or broad groups based on
21 their assessment of which of these jobs are more closely
22 related to each other. It's not mine, it's the Bureau of the
23 Census, in the occupational categorization.

24 And the purpose of the occupational categorization is to
25 provide the Government's - the BLS' - or the Census

1 assessment as to which jobs are more closely related.

2 Q But, by closely related, in this sentence, what you
3 are saying, closely related means, is that a worker is likely
4 to look at occupations within either one of these narrow
5 characterizations or broad characterizations. You're saying it
6 doesn't matter whether it's the narrow ca - you said they
7 categorized them either narrowly or broadly and so, I gather
8 what you're saying is, whether narrowly or broadly, it's what a
9 worker is likely to look at as an alternative job or career
10 path?

11 A It's - it's -

12 Q In other words, Mr. Wachter, let me ask you -
13 THE COURT: Well, we gotta let - let - let - let
14 him -

15 MS. MEHLSACK: Okay.

16 THE COURT: Let him answer that question.

17 MS. MEHLSACK: Okay.

18 THE WITNESS: Ah, it's a gen - well, I don't - the
19 statement I'm making here is a general statement which is true
20 about the Bureau of the Census categorization. If you want to
21 go into, ah, narrow - narrower category, um, this statement
22 would then be modified by the extent to which - and if you -
23 an employee would be moving to a different occupational
24 category.

25 CONTINUED CROSS EXAMINATION

1 BY MS. MEHLSACK:

2 Q You pleaded unclear terms. Are you saying that a
3 worker looking at the 90 different occupations within the
4 precision production major occupational grouping, which
5 contains the 12 sub-groups that you utilized for analyzing the
6 skilled trades, that that worker is going to view any one of
7 those 90 jobs as an alternative career path, and that those 90
8 jobs require roughly similar training and possess roughly
9 similar job characteristics?

10 A That's what - that's what I said. Yes.

11 Q Okay.

12 Do you - you - you stated earlier that you -
13 instead of using Delphi's four categories, you used the two
14 broad categories because, while not all of the Delphi worker -
15 there are more Delphi workers who fell into the two broad
16 categories than the four categories.

17 When you looked at the major occupational grouping of
18 precision production workers; did you look at each of the 12
19 categories?

20 A I - I looked at the 12 categories. I'm not sure what you
21 mean by looking at that?

22 Q Did you determine whether or not, in each one of
23 those 12 categories - each one of those 12 categories included
24 jobs that were present at Delphi?

25 A As I believe I said, not all the jobs, not all the skilled

1 jobs, in Delphi, were able to be categorized into the 12 we
2 chose.

3 Q That's not what I'm asking you, Mr. Wachter. I'm
4 asking you of - whether or not, if you look at the 12
5 categories in the major occupational grouping, precision
6 production and repair that you utilized for the skill trades.
7 Whether there are any one of those categories that have no jobs
8 that are present at the Delphi facility, and, therefore, it
9 would inappropriate to include that category in your analysis?

10 A Ah, we were using broad averages. And, the averages that
11 we using were largely insensitive to any, ah, adjustments that
12 you would make, as long as you're talking about, ah, dropping
13 jobs at the top as well as at the bottom.

14 Q So, you would - they - they -

15 A (Inaudible.)

16 Q - they - they - your analysis was insensitive to
17 the skill level and complexity level of - of the jobs?

18 A I didn't say that.

19 Q Your analysis was insensitive, I believe you said, to
20 whether - in dropping down to the occupational level.

21 A I was -

22 THE COURT: I don't think he said that.

23 MS. MEHLSACK: Well - perhaps you wanna - we'll
24 have - if you could read back the answer.

25 THE COURT: Could you - yeah. Why don't - why don't

1 you read back what he said.

2 (Whereupon, the Court Reporter read back the previous
3 answer.)

4 CONTINUED CROSS EXAMINATION

5 BY MS. MEHLSACK:

6 Q Well, what do you mean by jobs at the top? There's
7 this jobs at the bottom?

8 A Ah, if you're trying to do a categorization across
9 occupational categories, and I will say this is more relevant
10 to the production line than it may be to the skilled line. But
11 - because you could also have that come in the production
12 line. What we did, was to drop a number of the jobs that were
13 largely, ah, ah, from the - from the full list of - within
14 the Bureau of the Census of related jobs.

15 If there were no jobs at Delphi, that fit within those
16 jobs, we would fit an analysis where we dropped those jobs out,
17 for the production line, to see if it made a difference in the
18 average wage that we calculated and for the production, um, the
19 - the people who run the equipment as well as the handlers, it
20 did not make a difference.

21 Q But you did not do that for the skilled trades?

22 A That's correct.

23 Q So, for example, there is a category in the pre-
24 production precision - in the - in the precision production
25 jobs, called Precision Textile, Apparel and Finishings Machine

1 Workers, including dressmaker, tailors, upholsterers and shoe
2 repairers. And, do you know what the average wage is of the
3 employees in that category?

4 A Ah, no, I do not.

5 Q Okay.

6 It, in fact, is about \$11, and I will, if you bear
7 with me for a moment. The tailors and upholsterers, I'm sorry.
8 But - make - their new hourly earnings, and this is from the
9 November 2004 National Compensation Survey, which I'm - I'm
10 correct that - that you used the NCS from November 2004, and
11 then extrapolated from there to 2005 wage rights; is that
12 correct?

13 A Yes.

14 Q Well, the - the tailors and the upholsterers make
15 \$13 and made - \$13.94, and \$14.65 respectively, as their main
16 hourly earnings in 2004.

17 So, you did not, for the skill trades exclude that
18 group at - what you call the bottom from the - and your -
19 your calculation of the - of comparability from the skill
20 trades?

21 A Um, I don't recall sitting here now, whether that was one
22 of the broader categories that we included. But it is the case
23 that for the categories that we included, we did not drop jobs
24 at the bottom and the top. We did it for the production, for
25 the machine operators and the handlers.

1 MS. MEHLSACK: May - may I have that answer read
2 back to him, please. I apologize.

3 (Whereupon, the previous answer was read back by the
4 Court Reporter.)

5 THE WITNESS: Yes.

6 CONTINUED CROSS EXAMINATION

7 BY MS. MEHLSACK:

8 Q And - I'll refer you to Page 15 of your decla -
9 declaration, Paragraph 39.

10 Do you not state, at Paragraph 39, that you used all
11 12 occupational categories in which the BLF classifies skilled
12 workers?

13 A Well, what I said there - I'll just read back so it's -
14 it's somewhat different from what you said.

15 We calculated the average wage of workers economy wide,
16 did a comparable to Delphi's skilled workers based on data on
17 the average hourly earnings of full time workers, a - across
18 the 12 occupational categories where the BLS classifies most
19 Delphi skilled employees.

20 Q So, you used the 12 occupational categories that are
21 apart of the major occupational grouping pre - precision
22 production, craft and repair. You used all 12 occupational
23 categories?

24 A No. That - I mean - that's not correct.

25 Q Well, isn't that what you say here? You used the 12

1 occupational categories where the BLS classifies most Delphi
2 skilled employees.

3 A Well, un - unless I'm wrong and that's the title of the
4 overall categories. If it's the title of the overall category,
5 then you're right. If that's a narrower category, then it
6 wouldn't be right.

7 Q So, you don't know, sitting here today, Mr, Wachter,
8 what the major occupational grouping is? What the 12
9 occupational categories are, that you included in your analysis
10 of the skilled trades?

11 A I certainly knew it in detail when I was doing this study.
12 Since I didn't (inaudible), ah, that page into the report. I
13 don't have it here and I cannot testify without speculating on
14 your titles.

15 Q Okay.

16 We - we will - did - did you put any part of the
17 NCS into your report?

18 A I (inaudible).

19 Q The National Computation Survey?

20 A We didn't publish number - we didn't take numbers out of
21 the NCS and put those numbers in -

22 Q But, sitting here today, you can't say whether you
23 utilized all 12 occupational categories in the major
24 occupational grouping, production precision or you didn't use
25 all 12?

1 And, I didn't (inaudible) from your report, would I,
2 since you don't -

3 THE COURT: Well, let him - let him answer that for
4 now - question first.

5 MS. MEHLSACK: I'm sorry. I withdraw the question.

6 THE COURT: But - but, answer the other one. Did you
7 use all 12?

8 THE WITNESS: Um, the 12 we - the - the 12 that I
9 used were the categories that apply to most of Delphi's skilled
10 workers. So that in the study we did of overall skilled
11 workers, we had most of the skilled workers in these categories
12 and there were 12 of them. They are broad occupational
13 categories. So it would include, for example, electricians as
14 one of those categories.

15 Um, we then took an average of those categories, ah,
16 for - from the private sector to get the market wage.

17 I think in terms of the particular category that
18 you're referring to, I simply do not recall if that is one of
19 the 12. I don't know if its even - I don't think it sounds
20 like the broader category. But, without having the page in
21 front of me, it would be hard to answer that question
22 precisely.

23 THE COURT: Well, if you pro -

24 MS. MEHLSACK: Your Honor -

25 THE COURT: - if you provided the list of the 12

1 categories that you used?

2 THE WITNESS: Um, I think we did. But -

3 THE COURT: Okay.

4 Well, if you - if you haven't, can you provide that?

5 THE WITNESS: Cer - certainly.

6 THE COURT: Okay.

7 MS. MEHLSACK: I - I might be able to, Your Honor.

8 See if this - up, if I may.

9 May I have this marked - and I'm not sure how you're
10 marking (inaudible).

11 MR. BUTLER: We aren't. We aren't. You can show it
12 to him and it'll be marked later for Court.

13 CONTINUED CROSS EXAMINATION

14 BY MS. MEHLSACK:

15 Q Mr. Wachter, is the National Compensation Survey,
16 July 2004, that you utilized -

17 A Yes.

18 Q - in your report?

19 Would you turn to Page 5 and the heading, Blue Collar
20 Occupations.

21 A Yes.

22 Q And would you - and - and I don't normally do this,
23 but I'd ask you to read the first two paragraphs.

24 THE COURT: What? I'm sorry. I thought - I thought
25 what you were going to do is, you had the list of what he

1 identified?

2 MS. MEHLSACK: Well, I have a list and I'm trying to
3 make sure that that is the -

4 THE COURT: No, let's just get the list that he used.

5 MS. MEHLSACK: Will you - will you turn -

6 THE COURT: I mean, I think that's what - why don't
7 we just get the list he used.

8 This is - I don't - unless this is going to help -
9 refresh your recollection - is this - will this reading this
10 refresh your recollection?

11 THE WITNESS: No.

12 THE COURT: All right.

13 I think we just have to get the list he used. And if
14 -

15 MR. BUTLER: Your Honor, we will - we will obtain a
16 list from the expert and file it as a supplemental -

17 THE COURT: And you can - and you can question him on
18 that.

19 MS. MEHLSACK: That's fine. If we - that's -

20 THE COURT: Once you see it.

21 MS. MEHLSACK: If that - I'm - I will do it that
22 way. You provide us with the list.

23 CONTINUED CROSS EXAMINATION

24 BY MS. MEHLSACK:

25 Q Do you know, Mr. Wachter, what is the range of wages

1 in the precision production group, major occupational group
2 that you utilized in arriving at a mean out wage for skilled
3 traders at Delphi?

4 A Ah, no, at this point I, again, I concentrated on the
5 average. And that's what I reported. I did not memorize the
6 range numbers nor did we report them.

7 Q Okay.

8 Are - are you

9 A Nor did we report them.

10 Q Are you aware that the range starts at \$11 and some
11 cents, and includes bakers and food batch workers?

12 A Ah, keep in mind, again, that we did a match with seven of
13 those categories that included Delphi's skilled workers.

14 Q I thought you said 12 categories, Mr. Wachter?

15 A That's the 12 categories. Didn't I just say 12?

16 Q No, you just said seven.

17 A I'm sorry. 12. I missed -

18 Q And - and I am asking you, are you aware that those
19 12 categories have a range that starts at -

20 THE COURT: He doesn't know what the 12 are. He
21 doesn't know what they are. Speaking today.

22 Q So you don't know what the range is now? Are you -
23 and - and you - you - you don't know what the 12 are?

24 MS. MEHLSACK: Well, Your Honor, the nine - I'm
25 going to have to because - I'm - I'm - unless we can -

1 THE COURT: No. You're - I - you'll have an
2 opportunity -

3 MS. MEHLSACK: Fine. Then, I - I - I will -

4 THE COURT: - once you see the list of the 12 then
5 you can ask him these types of questions -

6 MS. MEHLSACK: Okay.

7 THE COURT: - as to, you know, what was in the 12
8 and then go on.

9 MS. MEHLSACK: I will reserve on that issue. Let me
10 ask you -

11 THE COURT: You may not need to, I mean, if - if
12 your chart shows what the range is, you can let me know
13 separately.

14 CONTINUED CROSS EXAMINATION

15 BY MS. MEHLSACK:

16 Q I will - I will - I will ask you on - you - you
17 stated that you did not consider specific skills. You've
18 acknowledged these - these - the specific skills of various
19 groups of Delphi employees, in doing your analysis?

20 A What I used was the broad categories needed to do the
21 comparability study.

22 Q Okay.

23 Now, if -

24 A `I did not - I did not - and I think I was clear on
25 this. I did not do a specific study of individual skilled

1 categories.

2 Q Okay.

3 And where did you consider if a - at particular
4 branch, in which Delphi had identified - withdraw the
5 question.

6 Did Delphi identify, for you, the plants and the
7 regions in which Delphi was going to con - where - where
8 Delphi considered it had core businesses and Delphi was going
9 to continue in operation as opposed to the plants that it was
10 closing?

11 A Um, I was provided very, very general information. That
12 it was not an important part of my report.

13 Q And was that because you did not consider what
14 factors, in a particular geograph - geographic region, at a
15 particular plant, for a particular skill, and a - for a
16 particular occupation with particular skills, what it would be
17 necessary to pay the employees who performed that occupation in
18 order to attract qualified employees for that plant in that
19 particular region?

20 A That was a long question. I'm - I hate to ask -

21 Q I'm sure with - with your degrees and your - that
22 you be - what I'm asking you is, and - and would you repeat
23 the question, please.

24 (Whereupon, the question was read back by the Court
25 Reporter.)

1 Q You did not, in doing your analysis, consider, for
2 any particular plant or region where Delphi had identified a
3 core business, it was - it was going to continue in business,
4 and therefore, would need to maintain its workforce. What wage
5 Delphi would have to pay for a particular group of employees
6 who performed a particular occupation with particular skills
7 and particular requirements?

8 A Thank you.

9 We did not do a specific skill study. We did not do a
10 specific plant study.

11 Q More - did you do a specific regional study to
12 determine what a market rate would for a particular plan in a
13 particular region, for a particular occupation; is that
14 correct?

15 A The market rate - the market rate cannot be a regional
16 rate. It has to be a national rate.

17 Q But you're saying that, Mr. Wachter, because you
18 believe that there's a national pool of employees for all of
19 Delphi's jobs?

20 A Um, over time, we have a national labor market. If the
21 plants - if Delphi's plants were to close, and the employees
22 had to find new jobs, it is unlikely that they would find those
23 jobs elsewhere at Delphi. They might not find in the auto
24 parts business, in the auto parts industry. They might have to
25 go to a different locality. That is the migration that takes

1 place, over time, in the United States economy. And that has
2 made it, um, whether you want to view vibrant as a good term or
3 not, it's a very mobile society. A very mobile economy where
4 jobs move and employers move.

5 Q Well, would that - would that analysis apply to jobs
6 where there are specific local requirements, including
7 residency requirements, the licensing?

8 A If you had to relocate, it would be more costly,
9 obviously.

10 Q And there are more restrictions on this free flowing
11 movement that you're describing?

12 A It certainly could be done. It would be more difficult.

13 Q Now, are you familiar with the fact that the
14 stationary engineers, for example, have - require to be
15 licensed? And those licensing requirements are at both State
16 and Local levels?

17 A I believe that to be true, but now we're going back to my
18 days at the IRL School.

19 Q That was '64 or '84?

20 A That was, maybe '74.

21 Q Are you - are you -

22 A (Inaudible.)

23 Q And - and let me -

24 A (Inaudible), I - I actually believe it was in graduate
25 school, in which case it would have been 1968.

1 Q Are you aware - and - now, you talked about this
2 national labor market, in terms of closed plants. Did those
3 plants that Delphi determines to keep open, assuming that there
4 is a attrition program and that some member of employees leave,
5 and Delphi has to attract replacements. Is it your contention
6 that the na - that the local market and is irrelevant to
7 Delphi's ability to attract replacements in any particular
8 plant, in any particular region?

9 A Do you say that the national market is relevant -

10 Q Is - is - that the local market is irrelevant.
11 That is that local rates paid for a particular occupation or a
12 particular skill are - are not relevant to Delphi's ability to
13 attract replacements for a particular job category?

14 A Ah, the hypothetical is difficult. I would assume if
15 they're both displacing and hiring, um, I don't know if they're
16 bumping rights or not, ah, but if there aren't, um, over time,
17 the national market kicks in.

18 If you need somebody next week you may want to hire
19 somebody, in which case, a local rate might be important to
20 you. However, if the rates at Delphi is playing - paying
21 overall, in terms of wages and benefits, um, you wouldn't find
22 - in all my years of studying, um, ah, wage premiums; and this
23 may not refer to your workers, the people you're representing,
24 at all, but Delphi has an incredible wage and compensation
25 premium. You just don't find this -

1 Q Are you aware of how Delphi's wage rate compares to
2 the wage rate of stationary engineers in the auto parts
3 industry nationwide?

4 A No.

5 Q Are you aware of the fact that the - let me - are
6 you aware of the fact that BLS does analysis? There - there
7 are two - two - two levels of - of analysis, broadly, that
8 BLS does. One is the National Compensation Survey. The
9 other's called the Occupational Employment Statistics?

10 A Yes.

11 Q And you're aware that the Occupational Employment
12 Statistics get down to the particular occupation, regional
13 levels, industry levels?

14 A Yes.

15 Q Are you aware that the BLS has - has published a
16 study that shows that back in 2004 the new wage for stationary
17 engineers at auto parts manufacturers, nationwide, was \$28.58
18 an hour?

19 A Well, as I said, I did note - I do not know - did not do
20 any direct study of the stationary engineers.

21 Q Are you - you did no direct study of nationwide
22 rates, either of any particular occupational category, within
23 the skilled trades? Neither electricians or stationary
24 engineers or anyone else who performs what you described as com
25 - who - who handles complex machinery?

1 A No. Ah, I forgot how you expressed that question -

2 Q I -

3 A - as to yes or no. We did a study -

4 Q Mr Wachter, you answered the question.

5 THE COURT: No, he didn't.

6 What - what confused you about it?

7 THE WITNESS: I - I wasn't sure if it was stated in a
8 negative or the positive. As I've stated a number of times,
9 we did a study of the 12 occupations, in terms of the averages.
10 I did not do a specific study of stationary engineers.

11 MR. BUTLER: Your Honor, Mr. Wachter's colleague did
12 provide me the 12 categories. I could read them into the
13 record and provide them to Counsel, and maybe after a break she
14 could have an opportunity to review them.

15 THE COURT: Okay.

16 All right.

17 MR. BUTLER: May I read in the record so the Court's
18 aware of what they are?

19 THE COURT: Sure.

20 MR. BUTLER: I'm advised that the methodology for the
21 skilled workers comparison of simple average wage among 7200
22 skilled Delphi workers was the unweighted average, NCS wage
23 across 12 national occupations in which approximately 85
24 percent of Delphi's skilled workers belong.

25 They are:

1 One, carpenters.
2 Two, electricians.
3 Three, industrial machinery repairers.
4 Four, inspectors, testers and graders.
5 Five, machinery maintenance.
6 Six, machinists.
7 Seven, millwrights.
8 Eight, pattern makers and model makers, metal.
9 Nine, plumbers, pipe fitters and steam fitters.
10 Ten, precision inspectors, testers and related
11 workers, NEC.
12 Eleven, tool and dye makers.
13 And, 12, welders and cutters.
14 And I'll give Counsel the list.
15 MS. MEHLSACK: Your Honor, if I may have some time
16 during the break to review this list?
17 THE COURT: Yeah, that's fine. That's fine.
18 MS. MEHLSACK: Thank you.
19 I have no further questions.
20 THE COURT: Okay.
21 MR. KURTZ: Your Honor, Glenn Kurtz, for the et al
22 Committee of Equity Holders.
23 CROSS EXAMINATION
24 BY MR. KURTZ:
25 Q Dr. Wachter, Delphi skill workers are provided total

1 compensation premiums relative to comparable workers, economy
2 wide of 95 to 150 percent; correct?

3 A Could you refer me to - since we did a number of
4 calculations where you - where you are?

5 Q I refer you to Paragraph 11 of your declaration.

6 A Okay.

7 Here - I'm sorry, can you repeat the question?

8 Q The Delphi skilled workers are provided total
9 compensation premium relative to comparable workers, economy
10 wide in between 95 percent and 150 percent; correct?

11 A One second. Page - Page 11.

12 Q It is - I'm sorry. It is Page 6, it is Paragraph
13 12. It is the first bullet point of your declaration.

14 A Pa - say that one more time.

15 THE COURT: Page 6, Paragraph 11.

16 MR. KURTZ: Paragraph 12 - Paragraph 12.

17 THE WITNESS: Can you read me the first bullet?

18 CONTINUED CROSS EXAMINATION

19 BY MR. KURTZ:

20 Q Yeah, I'm - I'm asking you whether it was your
21 conclusion that Delphi skilled workers were provided total
22 compensation premium relative to comparable workers, economy
23 wide of 95 to 150 percent?

24 A Yes.

25 Q And the 150 percent premium was where OPEB benefits

1 were included; correct?

2 A Yes.

3 Q And, Delphi's production workers are provided total
4 compensation. That is 2.6 to 3.5 times greater than comparable
5 workers, economy wide; correct?

6 A Correct.

7 Q And, the 3.5 times is when including OPEB benefits;
8 correct?

9 A Yes.

10 Q And, non-wage benefits of Delphi's skilled workers
11 are about three times greater than those of similarly skilled
12 workers economy wide; correct?

13 A I'm sorry. You were going a little fast at that point.

14 Q Pa - Paragraph 11, first bullet point.

15 Non - the non-wage benefits of Delphi skilled
16 workers are about three times greater than those of similarly
17 skilled workers economy wide; correct?

18 A Yes. And - yes.

19 Q And - and the non-wage benefits of Delphi's
20 production workers are four times higher than those of
21 similarly skilled workers economy wide; correct?

22 A Correct. Yes.

23 Q Okay.

24 THE COURT: OPEB.

25 MR. KURTZ: OPEB.

1 Q And non-wage benefits include OPEB benefits; correct?

2 A Ah, correct.

3 Q And the elimination of OPEB benefits is reflecting
4 the Debtor's proposal - is consistent with market place
5 benefit levels; correct?

6 A Correct.

7 Q And the reduction of non-wage benefits, in total, as
8 reflected in the Debtor's proposal, is consistent with non-wage
9 benefit market levels; correct?

10 A Correct.

11 Q And the same is true for total compensation; correct?

12 A Yes.

13 MR. KURTZ: No further questions.

14 MR. SIMON: Your Honor, is there permission for a
15 recross of the redirect?

16 THE COURT: Well, there hasn't been redirect yet.
17 There hasn't been redirect yet, right?

18 We'll see.

19 Well, but before - before we adjourn, I have a
20 couple of questions, which, probably are appropriate to have
21 now.

22 Um, you - you mentioned, Dr. Wachter, that you chose
23 two of those categories that were broader than the four that
24 Delphi had used. And you said you did that because it covered
25 all the production workers and they're all (inaudible) Delphi

1 did -

2 THE WITNESS: Yes.

3 THE COURT: - with production.

4 Do you know what the (inaudible) rate would have been
5 for the four that Delphi was using?

6 THE WITNESS: I think it was about a dollar a hire.
7 I'm - Judge, I'm sorry, a dollar lower, our number was higher
8 than their number.

9 THE COURT: Your's was higher?

10 THE WITNESS: Higher than their number.

11 THE COURT: Oh.

12 You know what, I think Mr. Kennedy asked you, to do
13 some, in your head math, about the effect of the difference
14 between the national average that you've (inaudible) the
15 production records. And, the number in your report, the hourly
16 - hourly number, Roman number in your report. And I think
17 there's a separate chart in your report, that's its Roman five
18 three, comparing, again, the Delphi number with the three other
19 surveys, the competitor survey that cars survey?

20 THE WITNESS: Yes.

21 THE COURT: And, num - there wasn't an average of
22 those three, so you - I couldn't really tell whether the
23 Delphi number was higher or lower than those three. I get -
24 what was the reason for not doing an average of those three?
25 Or that this - that they were different populations in each

1 three?

2 THE WITNESS: Yes.

3 THE COURT: Okay.

4 THE WITNESS: All right. And I think I testified to,
5 our conclusion with respect to, um, market compensation rates,
6 ah, is pretty much in the middle of these three.

7 THE COURT: Well, I guess, that - that goes to my
8 next question, which is, given the national average, and the
9 fact that it's - it's somewhat higher. In over a year it may
10 be materially higher per worker, I'm - I'm not sure what the
11 affect on Delphi would be, because that's not come out, but per
12 worker it's - it's a significant difference. That - that 30
13 to 50 cents difference per hour.

14 Why - why the lower number in the proposal?

15 THE WITNESS: I have not consulted with Delphi
16 management at any point -

17 THE COURT: Okay.

18 THE WITNESS: - in terms of that calculation.

19 THE COURT: So, let me just - you're - you're not -
20 you're just saying that their number is reasonably close to the
21 national averages?

22 THE WITNESS: Yes.

23 And in terms of the context of trying to keep the
24 company afloat, and workers who wanna retain their jobs as
25 distinct from having to move to other jobs, their proposal

1 would be, um, roughly a market rate.

2 THE COURT: All right.

3 Well, actually, that was the other question I wanted
4 to ask you, related to that point. Your - your study,
5 generally, is about comparability of wages and non-wage
6 elements of compensation; right?

7 THE WITNESS: Yes.

8 THE COURT: And it's not generally a study of whether
9 Delphi, generally, competes effectively with those out there in
10 the market place competing against it; right?

11 THE WITNESS: Ah, not generally. Although the
12 competitor data, um, is extremely important data on labor
13 costs. And it would be, from an economics perspective, very
14 unusual for a firm to be able to compete effectively with the
15 kinds of costs that Delphi has currently, compared to the
16 market.

17 THE COURT: But there are other ways that they can
18 compete than labor costs; correct? And you really haven't
19 gotten into that one way or the other?

20 THE WITNESS: That's true. Although the size of these
21 premiums are - are, as I said, larger than any I've seen
22 before. It would take a huge amount of other factors to put
23 them back close to the market.

24 THE COURT: Okay.

25 Is - is there - I - I'm assuming, as having seen

1 the papers. I'm not seeing any indication that there is. Is
2 there any similar econometric measure, of sort, of general
3 competitiveness as opposed to comparability on wages?

4 THE WITNESS: I -

5 THE COURT: Other than just the fact that a company is
6 losing money?

7 THE WITNESS: Um, I do not believe so. I mean, one
8 can go through sort of a - a - you know, sort of a logical
9 rendition of what it means to have these high costs. And what
10 impact it would have on the firm's competitiveness if the costs
11 were lower. But, that's a lot different than, as you say, in
12 econometric study, which does not exist, in my understanding.

13 THE COURT: Okay.

14 All right. Thank you.

15 How long do you think your redirect will be?

16 MR. BUTLER: Do you finish the cross, Your Honor.

17 THE COURT: Oh, I thought we were done.

18 MR. BUTLER: No, there's - there's one cross that was
19 reserved, I think.

20 THE COURT: There was?

21 MR. BUTLER: (Inaudible) It's the one dealing with the
22 quality -

23 A VOICE: The charts.

24 THE COURT: Oh. I - I've

25 MS. MEHLSACK: Well, I'm looking at what's been -

1 THE COURT: Well -

2 MS. MEHLSACK: - provided to me, Your Honor.

3 THE COURT: Do you wanna take like a 15 minute break

4 or -

5 MS. MEHLSACK: Yeah.

6 THE COURT: Or I can take an hour's break. We have
7 lunch now.

8 MS. MEHLSACK: I - I actually - that might make
9 more sense, Your Honor.

10 THE COURT: All right.

11 We'll do that.

12 MS. MEHLSACK: I'm sure -

13 THE COURT: Okay.

14 I'll be at - at one o'clock

15 (Whereupon, the proceedings broke for lunch at this
16 time.)

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1 THE COURT: All right. We're back on the
2 record in Delphi. Mr. Wachter, you're still under
3 oath.

4 M I C H A E L L. W A C H T E R, WITNESS, PREVIOUSLY
5 SWORN.

6 DIRECT EXAMINATION BY MS. MEHLSACK:

7 Q Good afternoon, Mr. Wachter, Barbara
8 MEHLSACK, the operating engineers, and I have just two
9 questions on a document that counsel handed me before
10 the lunch break, which I believe you had a chance to
11 review, and this -- the document headed "Skilled
12 Workers." It is -- is it your contention that the 12
13 occupations that are listed here are the wage rates to
14 be found in the BLS National Compensation Survey for, I
15 guess, July of 2004 are the wage rates that you
16 utilized to make your analysis of the comparability of
17 Delphi's skilled worker wage rates?

18 A Well.

19 Q Do you want me to give you the --

20 MS. MEHLSACK: Mr. Gant (phonetic), I didn't
21 think it was there.

22 A All right. This is the group that we use to match
23 with wage raise. Correct.

24 Q TO match with wage rates. Now what I'm
25 asking you -- I asked you, was it wage rates of skilled

1 trades, Delphi's skilled trades?

2 A There was -- like you have it on your sheet?

3 Q Yeah.

4 A They were a skilled trade.

5 Q And you used those to determine the
6 comparability of Delphi's skilled trade wage rates.

7 A Again, all we did was an average across the
8 skilled groups. We did not do a specific analysis of
9 operating engineers.

10 Q I understand, Mr. Wachter, and this is not a
11 trick question. It was just that you answered my
12 question by saying "wage rates," and I just want to
13 clarify that when you said "wage rates," you mean just
14 the skilled trades wage rates.

15 A I think we were saying the same thing, yes.

16 Q Well, you did an analysis of the production
17 worker wage rates, and I want to -- I want to make sure
18 that I understand that these 12 categories, these 12,
19 what you call national occupations, were utilized for
20 -- we're talking about the skilled trades analysis now.

21 A Yes.

22 Q Only.

23 A Right.

24 Q Now your -- this torn piece of paper says
25 that --

1 MR. BUTLER: Objection, Your Honor. We were
2 asked to produce the list of the 12, not a document or
3 anything else to read into the record. We read it into
4 the record. It happens to be on a piece of paper.

5 THE COURT: All right. She's just
6 identifying it.

7 MR. BUTLER: Okay. We're not offering that
8 that piece of paper is an exhibit, Your Honor.

9 THE COURT: Okay.

10 MS. MEHLSACK: Oh. You're not Counselor?

11 MR. BUTLER: No. We read into the record and
12 the client or the --

13 MS. MEHLSACK: All right. All right.

14 MR. BUTLER: -- expert has confirmed that
15 these are the 12.

16 MS. MEHLSACK: And will you produce --
17 because I asked the question in the break whether this
18 document was in the -- included in the Reliance
19 materials that you produced, and you said you weren't
20 sure, and it's my understanding now from an answer you
21 got from somebody else that these are -- were working
22 notes that were not included in the Reliance materials.

23 MR. BUTLER: Counsel, you know, I'm not used
24 to having a colloquy on the record about off-the-record
25 conversations, but we have answered all of your

1 discovery requests. There are no discovery requests
2 outstanding, and we presented the witness at trial.

3 MS. MEHLSACK: I'm actually not talking about
4 a discovery request, Mr. Butler. I'm talking about
5 your submission of what you denominated as Reliance
6 materials to Mr. Wachter's report, and all I'm trying
7 to establish is -- because I did not see any lists
8 comparable to this in the Reliance materials, and I
9 confess that with the ton of papers here, I could have
10 missed it. Was this -- was the piece of paper of which
11 this represents a torn piece of included in the
12 Reliance material?

13 MR. BUTLER: And the answer, Counsel, as I
14 told you off the record, was no. Reliance materials
15 are those third-party documents that he relied on, the
16 client documents and so forth. These are his internal
17 working notes.

18 BY MS. MEHLSACK:

19 Q Mr. Wachter, I refer you to Page 15 of your
20 declaration.

21 A Yes.

22 Q Okay. Now this document that you utilized
23 that's not being offered as an exhibit, that states
24 that unrelated average NCS wage across 12 national
25 occupations in which approximately 85 percent of Delphi

1 skilled workers belong. Now I'm correct that
2 stationary engineers are not listed amongst the 12
3 occupations on this document.

4 A That's correct.

5 Q Now I'd like to refer you to Page 15 where
6 you state that the average wages of Delphi's skilled
7 workers are 46 percent higher than the average wages of
8 full-time workers in comparable occupations economy-
9 wide. Am I correct that the reference -- the
10 comparable -- the phrase comparable occupations refers
11 to the 12 occupations listed on this piece of paper?

12 A Yes.

13 Q Now is it the case that when you calculated
14 the average wages of Delphi's skilled workers that you
15 included the wages of the stationary engineers?

16 A For . . .

17 Q Right. For your conclusion that the average
18 wages --

19 A Oh. For the -- oh, for Delphi.

20 Q For Delphi. For your conclusion that the
21 average wages of Delphi's skilled workers are 46
22 percent higher than the average wage that you -- that
23 you resulted -- that resulted in your calculation --
24 from your calculations using these 12 occupational
25 groups.

1 THE COURT: Well, look at the first part of
2 Paragraph 39. It says the average wage of Delphi's
3 skilled workers is \$31.30, base pay -- base pay plus
4 COBRA. Were the stationary engineers included in the
5 calculation to come up with that \$31.30 average?

6 THE WITNESS: I do not believe so.

7 THE COURT: Okay.

8 MS. MEHLSACK: Your Honor, I have one more
9 question that's not on this issue, but it's a follow-up
10 in which -- and I was reserving. I understood perhaps
11 mistakenly, and I apologize, that I could ask this one
12 question, and it goes to Mr. Wachter's statement that
13 there is a -- and it relates to the question I asked
14 him about whether or not if there is a local need in a
15 Delphi plant for a worker of a particular skill,
16 whether the local rate is the rate that Delphi has to
17 look at for purposes of attracting a worker of that
18 particular skill, and I believe Mr. Wachter answered
19 that ultimately in the long run the national rate is
20 what matters.

21 Q Am I rephrasing you correctly, Mr. Wachter?

22 A Yes.

23 Q What is the long run? What is the time frame
24 that is the long run, in your view?

25 A It differs, but it could certainly be a couple of

1 years.

2 Q A couple of years. So that if the Rochester
3 or Columbus plants need to replace a stationary
4 engineer, it will be two years before the national rate
5 would become the rate which the Delphi would be looking
6 at to consider what they need to pay to attract a
7 stationary engineer.

8 A On the current wage rates certainly Delphi would
9 have no problem recruiting a stationary engineer.

10 Q And if the current wage rates were cut, as
11 Delphi proposes to cut them, and an attrition program
12 were put in place, and the Rochester plant needed to
13 replace one of the stationary engineers, what wage
14 rate, is it your recommendation, Mr. Wachter, that
15 Delphi would look at to attract a qualified stationary
16 engineer to run the power plant?

17 A I'm not making any recommendations as to what wage
18 rates they should offer.

19 Q And what wage rate would be the competitive
20 wage rate? Would it be the national wage rate or the
21 local wage rate, if they needed to replace an engineer
22 immediately?

23 A Well, given the specificity of the question, I
24 think the specificity of the answer would be that they
25 would obviously contact the union and nearby unions to

1 see if another stationary engineer were available and
2 to recruit that person to the job.

3 MS. MEHLSACK: I have no further questions,
4 Your Honor.

5 THE COURT: Okay.

6 MR. BUTLER: Your Honor, the debtors have no
7 redirect.

8 THE COURT: All right. You can sit down,
9 sir.

10 (Witness excused)

11 MR. BUTLER: Your Honor, continuing the
12 debtor's direct case. Calling now our fourth witness,
13 Steven Gebbia. We're presenting Mr. Gebbia in
14 connection with his declaration, which is Exhibit 13,
15 and move its admission subject to cross-examination.
16 G-e-b-b-I-a.

17 MR. BAUMSTEIN: Your Honor, Doug Baumstein on
18 behalf of the ad hoc committee of equity holders.

19 I'm rising to re-raise our application to
20 preclude the testimony of Mr. Gebbia on the grounds
21 that the equity holders were not to permitted to cross-
22 examine. Mr. Gebbia specifically testified to the
23 current benefits that were offered -- are currently
24 offered tot he unions, the proposed modifications, as
25 well as a comparison with respect to what salaried

1 employees get. It seems that a lot of what this goes
2 to is to the fair and equitable standard in Section 11-
3 13. It is the Equity Committee's -- ad hoc Equity
4 Committee's position that they are affected parties
5 under the statute, and as a result, would be entitled
6 to discovery of that, and, accordingly, we, therefore,
7 move to preclude the testimony on the grounds that we
8 were not given an opportunity to examine Mr. Gebbia.

9 THE COURT: Okay. Well, this is a similar
10 objection to the earlier ones, and had similarly been
11 the subject of the discovery conference about two weeks
12 ago, and for (indiscernible) reasons, I'll deny and
13 overrule the objection.

14 Mr. Gebbia's affidavit -- affidavit I think
15 is accurately in large picture form summarized by you.
16 But as I previously ruled, I don't believe that the
17 show of this objection goes to the specific test
18 Section 11-13C, but, rather, the debtor's overall
19 business judgment. And seeking rejection at this time
20 pursuant to a proposal that would trigger the claims or
21 potential claims that the shareholders have identified
22 and I believe that the prejudice to the main parties of
23 interest here, that is, the unions and the debtor, in
24 having additional deposition over and above what they
25 had previously agreed to between themselves outweighs

1 the shareholders' interest inquiring into the subject
2 matter of Mr. Gebbia's declaration. Okay.

3 MR. BAUMSTEIN: Thank you, Your Honor.

4 THE COURT: Okay.

5 MR. BUTLER: Your Honor, one other matter in
6 response to the argument by the Whiten Case (phonetic).
7 I'm confused about the record. I'm concerned about the
8 record here. Whiten Case is now standing up saying
9 that they represent a committee, an equity committee.
10 (Indiscernible) in this case are representing Appalusa
11 (phonetic) and Wexler (phonetic) and a couple of
12 additional shareholders. I don't know if they filed a
13 20-19 statement. They asked -- they prosecuted a
14 motion for the appointment of an equity committee.
15 There is an equity committee here.

16 THE COURT: Well, I think counsel was careful
17 to say it was an ad hoc group. Obviously you do need
18 to supplement whatever you previously filed, if you
19 filed anything, and you should have -- I think you have
20 -- to reflect all of your clients.

21 MR. BUTLER: Thank you, Your Honor.

22 THE COURT: Okay. Would you raise your right
23 hand, please?

24 S T E V E N G E B B I A, DEBTOR'S WITNESS, SWORN.

25 THE COURT: And, again, could you state and

1 spell your name for the record?

2 THE WITNESS: My name is Steven L. Gebbia,
3 G-e-b-b-i-a. Two B's. S-t-e-v-e-n. Yes.

4 MR. KENNEDY: Tom Kennedy, IUE-CWA, Your
5 Honor. The order of cross-examination will be myself
6 and then attorneys for the UAW Steelworkers, the IDEW
7 and the operating engineers.

8 CROSS-EXAMINATION BY MR. KENNEDY:

9 Q Good afternoon, Mr. Gebbia.

10 A Good afternoon.

11 Q I'd like to direct your attention to Exhibit
12 13, which I believe is your declaration, Mr. Gebbia.
13 Do you have that in front of you?

14 A I do.

15 Q All right. At Paragraph 5 yo indicate that
16 the average cost of supplying health benefits for
17 traditional Delphi hourly employees is \$11,273 per
18 month?

19 A Yes.

20 Q Is that correct?

21 A Yes.

22 Q Now you note in Paragraph 11 of your
23 statement, sir, that under supplemental new-hire
24 agreements, new hires are provided with a reduced level
25 of healthcare, dental, vision, and prescription drug

1 coverage, correct?

2 A Yes.

3 Q Your declaration, at least as I read it, does
4 not contain a statement of the average cost to Delphi
5 for providing healthcare to employees who are under the
6 supplemental new-hire agreements that receive reduced
7 levels of healthcare. What is that cost?

8 A As I think about it right now, I don't know the
9 specific number.

10 Q Well, if you look at Paragraph 11, sir --
11 well, let me ask this. Is it less than \$11,273 per
12 month?

13 A I would say yes.

14 Q And how much less?

15 A In the neighborhood of maybe 10, 20 percent less,
16 but I don't know specifically.

17 Q Well, you gave an example in Paragraph 11 of
18 a reduced level of healthcare plan that one of the
19 unions had accepted, correct?

20 A Yes.

21 Q And that example is the IUE-CWA medical value
22 plan?

23 A Correct.

24 Q What is the cost to Delphi per month per
25 employee of providing the IUE-CWA medical value plan?

1 A Again, I don't have a specific answer.

2 Q I'd like to direct your attention to
3 Paragraph 13, Mr. Gebbia. You state:

4 "Given Delphi's inability to employ many
5 new hires since the implementation of supplemental new-
6 hire agreements" --

7 And then you go on. Do you know of any
8 union-imposed restriction on Delphi's ability to hire
9 new hires into the supplemental reduced wage and
10 benefits new-hire agreements?

11 A (No verbal response).

12 Q Do you want me to repeat that? You look a
13 little puzzled.

14 A Yes.

15 Q Okay.

16 A I'm clear about the unions imposed.

17 Q I'm looking at this notion that Delphi was
18 unable to employ many new hires. Is there anything the
19 unions are doing that is preventing Delphi from hiring
20 new people into its reduced wage, new-hire agreements?

21 A Well, in a very general sense, I would say that,
22 yes, I think there are some things in it. In a very
23 general sense, there are.

24 Q Okay. Well, in a very particular sense,
25 let's look at Kettering, Ohio. Kettering, Ohio permits

1 Delphi to hire people in at \$8 an hour, correct?

2 A I believe so. Something like that.

3 Q And that's IUE Local 755?

4 A Yes.

5 Q Has Local 755 done anything which prevents or
6 impedes Delphi from hiring new people into the
7 Kettering plant at that wage rate?

8 A Well, again, in a very general sense, to the
9 extent that the union will not agree with management to
10 all the provisions and things that need to make that
11 plant competitive and the plant cannot hire people
12 because they can't attract work, new work, at a
13 competitive level; you know, at a level that we can
14 actually be profitable or keep the operation viable.
15 So in a very general sense, I'd say yes.

16 Q Well, isn't it true that in a very particular
17 sense in response to precisely that argument, the IUE
18 agreed that new hires into that plant would be paid
19 substantially less and have reduced benefits?

20 A Yes.

21 Q Do you know what the Kettering plant makes?

22 A Shocks and suspension-type items, things like
23 that.

24 Q Does Delphi make shocks and suspension-type
25 items at any of its overseas plants?

1 A I believe it does.

2 Q And that's work that Delphi chooses to place
3 overseas at its plants instead of at the Kettering
4 facility, correct?

5 A Yes. Delphi chooses.

6 Q Do you know which IUE organized plants offer
7 the IUE-CWA medical value plan as an alternative plan?

8 A Generally speaking --

9 Q You might need to speak up a little, sir. I
10 think you're too far from the --

11 A I'm sorry. Maybe I should move this over. Is
12 that better?

13 Q Yes, it is.

14 A Generally speaking, plants, IUE-represented plants
15 outside of our -- like Dayton, Ohio, where there -- for
16 example, in Alabama or Mississippi or states like that
17 where we don't have a large concentration of operations
18 offer a medical value plan.

19 Q So of the seven IUE plants that are
20 operating, the three in the south, Gadsdin (phonetic),
21 Brookhaven, and Clinton all offer the medical value
22 plan?

23 A I can't say that specifically, but as I recall, I
24 believe that's true.

25 Q Now is it also true that employees under the

1 supplemental new-hire agreements receive a reduced life
2 insurance program from the traditional model?

3 A I believe that's true, yes.

4 Q And would you also agree with me that
5 employees under the supplemental new-hire agreements in
6 the IUE plants are not covered under the defined
7 benefit hourly retirement plan?

8 A Yes, that's true.

9 Q They in fact receive a defined contribution
10 plan, correct?

11 A Correct.

12 Q Under that defined contribution plan, there
13 is no legacy cost to Delphi for their employment,
14 correct?

15 A That is true.

16 Q And isn't it also true that there is no OPEB
17 (phonetic) arising from their employment?

18 A Yes, that's true, for those specific employees who
19 are covered under those competitive hire agreements.

20 Q Okay. Now your declaration at Paragraph 33
21 addresses supplemental unemployment benefits? And
22 you're aware of how that program works in IUE plants?

23 A I am.

24 Q Isn't it a fact that IUE contracts permit, if
25 Delphi's volume of work declines, for employees to be

1 laid off for up to 90 weeks?

2 A That's correct.

3 Q Now Delphi has raised issues about the jobs
4 bank program before. Isn't it correct to state that if
5 IUE members were laid off by Delphi now, it would be,
6 if we do the arithmetic on the 90 weeks, past the
7 expiration of the current collective bargaining
8 agreement before anyone went on the jobs bank?

9 A If we someday you were going to be laid off for 90
10 weeks, yes. That goes past September of 2007, yes.

11 Q Now I'd like to direct your attention to
12 Paragraph 48. Now I believe Paragraph 48, just to set
13 the context, is discussing the terms of the proposals
14 that have been made to the various unions, including
15 the IUE-CWA, correct?

16 A Paragraph 48 speaks to Delphi's proposal in the
17 pension area?

18 Q Yeah.

19 A Yes.

20 Q And your -- or Delphi's proposal in the
21 pension area is contingent upon sufficient GM financial
22 support. We all know that, correct?

23 A Paragraph 48 speaks to both the contingency of GM
24 financial support and also the absence of GM financial
25 support.

1 Q Okay. So absent GM financial support, Delphi
2 proposes a company contribution of three percent for
3 new hires only.

4 A Correct.

5 Q And I'm assuming, though, it doesn't
6 precisely say that, but you're referring to a three-
7 percent contribution to a 401(k) type plan of some
8 sort.

9 A Yes. Three percent of pay.

10 Q Okay. And that would only be for new hires.

11 A That is correct.

12 Q And you'd be defining new hires a people
13 hired presumably after the implementation of this
14 competitive wage scenario.

15 A After the agreement, yes. After the acceptance of
16 the proposal and an agreement, yes.

17 Q Well, let's put it this way. After the new
18 terms would be put in place, however they got there,
19 this would be the deal for people hired after that
20 date, right?

21 A That's correct, yes.

22 Q Okay. So of the 8,500 IUE employees working
23 now, even the competitive benchmark scenario assumes
24 that most of them will continue working through most of
25 '07, correct?

1 A I don't know that specifically.

2 Q Well, assume it's --

3 A But directionally I would agree with it.

4 Q Okay. And so the company's proposal without
5 GM support is that they would have no pension benefit
6 accrual during that period of time.

7 A That is our proposal.

8 Q Okay. But new people hired would be getting
9 three percent while everyone who had been there prior
10 to this new system would be getting nothing for
11 pension.

12 A Assuming there were any new people hires, yes,
13 that's true.

14 Q Well, I assume you've made a proposal for a
15 contribution rate because you assumed some new people
16 might be hired. Is that correct?

17 A At some point in the future.

18 Q Okay. Now the proposal with GM support
19 provides that for our brothers in the UAW, they would
20 receive 7.5 percent, seven and a half percent,
21 contribution into a defined benefit plan, correct?

22 UNIDENTIFIED MALE SPEAKER: Defined
23 contribution plan.

24 Q I mean defined contribution plan.

25 MR. KENNEDY: Thank you.

1 A With GM support.

2 Q Yeah. With GM support.

3 A Yes.

4 Q I want to focus on something, though. The
5 proposal for the IUE-CWA with GM support is that "an
6 amount to be negotiated locally"? Is that the
7 proposal?

8 A It is.

9 Q Is there any minimum or maximum to the amount
10 that the company is proposing to negotiate locally for
11 a pension benefit with the IUE?

12 A Not specifically stated.

13 Q And is the same analysis true with respect to
14 the personal savings plan, which we have identified --
15 or you have identified, rather, at Paragraph 50?

16 MR. BERKE: Object to form. When you say
17 "the same analysis."

18 MR. KENNEDY: Well, I'll straight --

19 MR. BERKE: Are you asking is it part of the
20 GM consensual or is it part of the competitive
21 benchmark, and --

22 MR. KENNEDY: It was a bad question.

23 MR. BERKE: Thank you.

24 MR. KENNEDY: I'll try to do better.

25 BY MR. KENNEDY:

1 Q With respect to Paragraph 50 on the personal
2 savings plan. Is it also Delphi's proposal to the IUE
3 that the personal savings plan contribution would be
4 "in an amount to be negotiated locally in IUE-CWA
5 plants"?

6 A Paragraph 50 is one and the same with the
7 Paragraph 48. The defined contribution pension plan
8 would be within the framework of our personal savings
9 plan, so it's the same thing. They're one and the
10 same.

11 Q All right. And directing your attention to
12 Paragraph 54. Under the competitive benchmark
13 scenario, Delphi proposes to eliminate sub-benefits
14 entire, correct?

15 A Correct.

16 Q And under the GM support scenario, the
17 proposal is to "discuss a potential supplemental layoff
18 payment during the transformation periods." That's a
19 proposal?

20 A That is our proposal, yes.

21 Q And is there a minimum or a maximum amount
22 attached to this proposed sub-benefit in the GM
23 consensual scenario?

24 A I'm not sure what you mean by minimum and maximum
25 amount. A sub-benefit is a defined benefit that --

1 there's currently a definition for the amount of a sub-
2 benefit.

3 Q That's the current scenario, correct? Under
4 the company's proposal with GM support, what would the
5 sub-benefit be if it were agreed to by the IUE-CWA?

6 A I think what we're referring to here in terms of
7 discussing a potential supplemental payment would be
8 the length of time those payments were made, not the
9 amount of the payment.

10 Q You feel the amount of the payment is a fixed
11 amount known to everyone?

12 A I believe it's defined in our current agreements
13 and it's well understood by Delphi and all of its
14 unions that had sub-benefits.

15 Q So that it's news to me, others may know,
16 that the proposal for sub-payments that Delphi is
17 making is to continue the current amount, but to
18 discuss the length of time for which that amount would
19 be paid?

20 A That is correct.

21 Q At Paragraph 58, you state that salaried and
22 management employees currently pay 27 percent of their
23 healthcare costs. Do you recall that statement?

24 A I do.

25 Q You've identified the traditional wage and

1 benefit employees as costing for health benefits
2 approximately \$11,200 per month.

3 UNIDENTIFIED MALE ATTORNEY: Not a month.

4 MR. KENNEDY: A year. Yeah, you're right.
5 Thank you.

6 Q What is the similar yearly cost for health
7 benefits for salaried and management employees?

8 A That cost, the 11,000 per year is it for a family
9 rate?

10 Q Yeah.

11 A And on a comparable basis on the salaried side
12 would be somewhere in the neighborhood of eight to
13 \$9,000, cost to the company.

14 Q Okay. The 27 percent of their healthcare
15 costs, my understanding of how that would normally be
16 figured is not as against the eight or 9,000, but as
17 against the whole universe of costs that the employee
18 had absorbed. But why don't you tell me. What is that
19 27 percent figured against? 27 percent of what
20 represents their healthcare costs?

21 A Their total healthcare cost. The total bill for
22 healthcare.

23 Q Not the amount paid by the company?

24 A It would be the entire amount. In other words, if
25 healthcare cost 100, the employee would pay 27 and

1 Delphi would -- or Delphi would pay 73.

2 Q Okay. And on average per year, what does the
3 100 in the scenario you gave us a moment ago amount to?
4 How much money?

5 A I'm not sure. For whom are we speaking now?

6 Q Well, you made a statement that management
7 and salaried employees pay 27 percent of their
8 healthcare costs. Let me ask it this way. How much
9 money does that 27 percent represent?

10 A Roughly, \$2,000. And, again, this is, --

11 Q Okay.

12 A -- you know, directional.

13 Q We're talking about order of magnitude and
14 not exact numbers here, Mr. Gebbia.

15 A Yeah. Yes. 2,000, maybe 3,000. Yes.

16 Q Two or 3,000.

17 A Yes.

18 Q And that's because the total healthcare cost
19 for salaried and management employees are somewhere
20 between eight and 12,000 a year?

21 A Yeah. Something in that range.

22 Q Or (indiscernible).

23 A Something in that range, yes.

24 Q Okay. Now what percent -- assuming it's
25 \$2,000 or \$3,000, what percent of the overall average

1 compensation for salaried and management employees does
2 that money represent?

3 A Well, I would hesitate to give an answer on that
4 because there's a wide range of salaries, from, you
5 know, entry level salaried employee on up. So it would
6 depend on the salary much more than the healthcare
7 because the healthcare cost is rather fixed.

8 Q Well, we know that there are approximately
9 14,200 salaried and managerial employees of Delphi in
10 the United States operations, correct?

11 A Yes.

12 Q What is the average salary for those 14,200
13 people?

14 A I don't know the answer to that.

15 Q Is it more than \$60,000?

16 A It could be, but I don't know that.

17 Q Do you know if it's less than 60,000?

18 A I don't know.

19 Q So do you have any way to tell us what
20 percentage of compensation that two or \$3,000 that they
21 would be paying for healthcare represents?

22 A No. We don't typically calculate healthcare costs
23 as a percent of total compensation.

24 Q Well, would you turn to Paragraph 60, sir, of
25 your report? Now this chart purports to demonstrate

1 the differences between the current compensation and
2 benefits for traditional hourly employees on the chart
3 on the left and salaried and management employees on
4 the chart on the right, correct?

5 A Yes.

6 Q Now does this chart include reference to the
7 1,910 IUE members that are working under non-
8 traditional agreements?

9 A I would say no.

10 Q Okay. Now the first bullet refers to
11 healthcare. Currently hourly employees pay no monthly
12 contributions, correct?

13 A That's what this first (indiscernible) says, yes.

14 Q And monthly and management employees have
15 paid contributions since 1993.

16 A That is correct.

17 Q Now we know that the contributions that
18 Delphi has proposed to be effective with the new terms
19 and conditions of the employment are \$180 a month for
20 hourly employee, correct?

21 A For a family.

22 Q Family coverage, yeah.

23 A Correct.

24 Q All right. Have you computed what percent of
25 total -- I won't say total -- of employee hourly wages,

1 assuming the \$12.50 is implemented that would
2 represent?

3 A I have not.

4 Q Have you made any effort -- well, let me
5 withdraw that. Am I right in presuming that this chart
6 in Paragraph 60 is in your declaration in an effort to
7 show that the changes Delphi is proposing are somehow
8 fair and equitable?

9 A Yes.

10 Q In making that fair and equitable
11 determination, have you compared the amount of employee
12 compensation for hourly employees that will be required
13 for healthcare if your proposals are implemented versus
14 the amount of managerial compensation required to pay
15 for healthcare?

16 A I'm not sure I understood that question.

17 Q All right. Let me try to say it more
18 understandably and without going through our prior
19 questions and answers. We don't know, you haven't
20 computed the amount of compensation managerial people
21 pay for their healthcare, correct?

22 A Correct.

23 Q Have you done any comparison -- even though
24 you haven't analyzed the salary, have you done any
25 comparison between how much higher a percentage hourly

1 employees will be paying for their healthcare under
2 your proposal?

3 A We have not.

4 Q Let's look at the sickness and accident
5 benefit for a minute. The current policy pays 60
6 percent of base wage for 52 weeks, correct?

7 A Correct.

8 Q And the company proposal is to take that down
9 to 26 weeks, correct?

10 A That is correct.

11 Q And salaried and management employees, I see
12 that it is reduced to 26 weeks for employees hired
13 after 2000. Is that right?

14 A That is correct.

15 Q As we stand here today, what about employees
16 in the salaried and managerial ranks who were hired
17 before 2000? What benefit do they have?

18 A They have a -- essentially, what's comparable to
19 the hourly 52 weeks, essentially.

20 Q Okay. So when and if the company proposals
21 are implemented, all of the salaried employees will
22 have 52 weeks of sickness and accident coverage, but
23 hourly employees would have 26 weeks, correct?

24 A That's not necessarily true. We are currently
25 evaluating the salary benefit package.

1 Q Okay. As we sit here today, based on the
2 public pronouncements that Delphi has made, isn't it
3 true that if your proposals were to be implemented, all
4 of the salaried and management employees hired before
5 2000 would have twice as much sickness and accident
6 coverage as the hourly employees?

7 A As we sit here today, that is true.

8 Q Okay. Let's look at the extended disability
9 benefits. The current hourly benefit is 55 percent of
10 base wage until retirement if you have ten years or
11 more of service, correct?

12 A Correct.

13 Q And the Delphi proposal is to eliminate that
14 benefit or to permit an employee to self pay for it.

15 A Correct.

16 Q And is it also correct that management --
17 managerial and salaried employees that were hired
18 before 2000 still have the 55 percent of base wage
19 coverage?

20 A That's not technically true. That's not
21 technically true.

22 Q Well, is it actually true then? What do you
23 mean by "not technically true"?

24 A The 55 management doesn't have the direct
25 translation of a 55-percent benefit.

1 Q What does it have?

2 A I believe management has 60-percent replacement.

3 Q Thank you. And I'm sure they deserve every
4 bit of it. The 60-percent benefit. The company has
5 not announced any plans to end that for the managerial
6 and salaried employees hired before 2000, have they?

7 A We have not announced any plans, but it is under
8 consideration, as is S and A?

9 A Okay. Now let's look at life insurance. You can
10 read in the chart the current benefit. And, frankly, I
11 don't know. If I did I would tell you. But I don't
12 know what the company proposal is for hourly employees
13 with respect to life insurance. What is it?

14 A \$40,000.

15 Q 40,000?

16 A Yes.

17 Q Okay. That's without regard to what money
18 they're making, correct?

19 A It's a broad amount, correct.

20 Q It's a broad amount. And what is the
21 salaried and managerial benefit for employees hired
22 before 2000 in the area of life insurance?

23 A It's two times annual base pay.

24 UNIDENTIFIED MALE ATTORNEY: Annual?

25 THE WITNESS: Annual base pay.

1 Q And does your knowledge of that program, by
2 the way, help you back into what the average base pay
3 might be for manager and salaried employees? You must
4 know what the pay outs have been, typically.

5 A I'm not sure I understand your question, but I can
6 --

7 Q Well, do you know -- never mind. Withdrawn.
8 Is there any cap on that managerial life
9 insurance policy?

10 A There is.

11 Q And what is that?

12 A I believe it's the legal limit of \$200,000.

13 Q All right. So that if your proposals were to
14 be implemented, hourly employees would have life
15 insurance of 30,000 and salaried and managerial
16 employee who made at least \$100,000 would have coverage
17 up to 200,000. Is that correct?

18 A Well, I guess I would correct that. Whatever the
19 legal limit is. It may not be 200,000. It was at one
20 time. It may be higher than that now. But there is a
21 cap.

22 Q Okay. And that cap is at least as great as
23 200,000 and maybe more?

24 A Yes.

25 Q Okay. With respect to retiree healthcare.

1 The company proposal is to eliminate retiree healthcare
2 except for folks not eligible for the GM guarantee and
3 they would get a medial savings account if GM came up
4 with the money, right?

5 A Correct.

6 Q What is the policy -- or I should -- yeah,
7 the policy, I guess -- for salaried and management
8 employees who were hired before 1993?

9 A The policy with respect to healthcare and
10 retirement?

11 Q Yes. I'm sorry. Yes.

12 A Our policy is while they would car sharing, as do
13 active employees, monthly contributions and co-pays and
14 deductibles. that, again, are stated 27 percent, and
15 we're looking at increasing those rates along with the
16 rest of our benefit package, and the coverages would
17 continue until age 65 when they reach Medicare
18 eligibility, and effective on January of 2007 we will
19 eliminate those coverages and they will receive a
20 retiree medical account.

21 Q Okay. The salaried and managerial workforce
22 has a 30 and out provision in the salaried retirement
23 plan, correct?

24 A It does.

25 Q And --

1 A It does for the employees hired prior to 1988.

2 Q Okay. So is it fair to say until the year
3 2018 there will be supervisors who are eligible to
4 exercise the 30-year retirement -- the 30-year-ad-out
5 retirement?

6 A In the context of a frozen pension plan, which we
7 have announced.

8 Q Okay. But for purposes of healthcare, they
9 would be retiring those people who still have the 30
10 and out through the year 2018?

11 A Presumably.

12 Q Yes. And those employees, according to the
13 company's plans, will still have retiree healthcare
14 form the point at which they retire until age 65,
15 correct?

16 A Under existing provisions, at the time they
17 retire, whatever those may be.

18 Q Okay. But there's no -- the only
19 announcement the company has made to date takes away
20 retiree healthcare at age 65, right?

21 A Correct.

22 Q So that the group of people who retire at age
23 55 would still have ten years of healthcare coverage
24 paid both by the company and by them through the point
25 they turn 65.

1 A Yes.

2 MR. KENNEDY: I would have no further
3 questions, Your Honor.

4 MR. LEVINE: Your Honor, Bruce Levine from
5 Cohen, Weiss & Simon for UAW.

6 CROSS-EXAMINATION BY MR. LEVINE:

7 Q Mr. Gebbia, I refer you, sir, please, to
8 Paragraph 40 of your declaration. Are you there, sir?

9 A I am.

10 Q The first sentence of that paragraph reads
11 that Delphi seeks to provide an industry standard
12 employee cost-sharing program with monthly employee
13 contributions and increased out-of-pocket maximums, co-
14 payments, and deductibles. What do you mean by
15 industry standard in your declaration?

16 A I think we mean very generally that employees
17 would share in the neighborhood of 30 percent or even
18 more of the total cost of healthcare and it would be
19 typically through monthly contributions as well as a
20 deductible and coo-payments for benefits.

21 Q Did Delphi prior to tendering any of its
22 proposals to UAW or to any of the unions, for that
23 matter, make any analysis of what the industry standard
24 is, as you refer to it in Paragraph 40 of your
25 declaration?

1 A I'm not sure what you mean by "make any analysis."

2 Q Was there any attempt to determine what is
3 the industry standard?

4 A Yes.

5 Q And what, if anything, was done to make that
6 determination?

7 A Well, a large part of the work we do is benchmark
8 studying. We have direct interaction with other
9 companies, including our competitors. The people who
10 work in the employee benefits activities of their
11 companies. We work very closely with consultants who
12 keep us apprized of industry practices, and this is how
13 we typically arrive at what is competitive.

14 Q And did you use that information, you being
15 Delphi -- did Delphi use that information in coming up
16 with its competitive benchmark proposal that was
17 tendered to the unions first in October of 2005?

18 A We used information that we have collected over
19 time and information that we collected specifically for
20 this purpose, yes.

21 Q And would -- withdrawn. With respect to the
22 information compiled for figuring out what the industry
23 standard is and then for figuring out what the proposal
24 to the unions would be, was that information, to your
25 knowledge, provided to the unions -- to the UAW or to

1 any of the other unions at the time the competitive
2 benchmark proposal was first tendered in October of
3 2005?

4 A It was provided through responses to, I would say,
5 hundreds of questions that were asked by the unions and
6 their advisors.

7 Q My question, sir, was whether it was provided
8 at the time that the proposal was first tendered to the
9 UAW or to any of the unions, for that matter.

10 A I don't specifically recall.

11 Q Now, Mr. Gebbia, would you please turn to
12 Paragraph 5 of your declaration? Are you -- excuse me
13 -- are you there, sir?

14 A I believe I am, yes.

15 Q Okay. And Mr. Kennedy had asked you some
16 questions about Paragraph 5 and I'm going to try not to
17 repeat those questions. But you do say in your
18 declaration in Paragraph 5 that the total cost to the
19 company for healthcare for hourly active employees is
20 approximately 384 million dollars per year?

21 A That is correct.

22 Q That's correct. And in the event that Delphi
23 were to -- Delphi's proposal to reduce healthcare
24 benefits was accepted by UAW, how much savings would
25 Delphi obtain as a result of the union -- of the UAW

1 accepting that proposal for reduction?

2 A I have not made that calculation and cannot
3 answer.

4 Q And why is it that you cannot answer that
5 question, sir?

6 A Because the way we developed our proposal was on
7 the basis of competitiveness. We talked about industry
8 standard and we are looking to what other companies
9 provide in the way of benefits to their employees in
10 terms of what we can provide to be competitive.

11 Q In order to obtain that 384-million-dollar
12 figure, did you multiply \$11,273, as I understand it,
13 that's the cost of healthcare to traditional employees,
14 traditional hourly employees, by the number of
15 traditional hourly employees?

16 A To arrive at . . .

17 Q 384 million dollars per year?

18 A I believe that was the calculation, although I
19 didn't do it personally.

20 Q Okay. But to your understanding, that's the
21 way you would come up with that number.

22 A Well, yes. It appears to me that from an
23 employee's specific basis to a monthly basis, which
24 would imply that the individual cost was multiplied by
25 the workforce and then multiplied by 12 to get the

1 annual cost.

2 Q Is it correct that in order for UAW or any of
3 the other unions to compute how much Delphi would save
4 in the event that the proposed healthcare reductions
5 were accepted, the -- one would have to calculate the
6 per cost, the -- withdrawn. In the event that the UAW
7 would want to compute the savings that Delphi would
8 obtain by accepting the proposed reductions in
9 healthcare, would the UAW have to multiply the
10 healthcare cost per employee by the number of
11 employees?

12 A I would say, yes generally. If I understand your
13 question correctly, you're asking if the cost per
14 employee times the number of employees equals total
15 cost; generally speaking, yes.

16 Q And isn't it correct that you can't tell us
17 how many UAW employees there will be as of, say,
18 November of 2006?

19 A Could you repeat the question, please?

20 Q Isn't it correct that, sitting here today,
21 you can't tell the Court how many UAW employees at
22 Delphi there will be as of, say, November of 2006?

23 A I could not predict that accurately. That's
24 correct.

25 UAW traditional hourly employees there will be as of,